JUSTICE OF THE PEACE & LOCAL GOVERNMENT REVIEW

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Official & Classified Advertisements, etc.

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

NESTON URBAN DISTRICT COUNCIL

Appointment of Deputy Clerk and Chief Financial Officer

APPLICATIONS are invited from suitably qualified persons for the above appointment.

The salary and conditions of service will be in accordance with the recommendations of the Joint Negotiating Committee for Chief Officers of Local Authorities, for an Urban District with a population of 10–15,000.

The appointment is superannuable, and terminable by three months' notice on either side.

Applications, stating age, particulars of experience and qualifications, present and previous appointments, with the names of three persons to whom reference may be made, should reach me not later than Thursday, November 24, 1955.

Candidates selected for interview will be invited to attend on December 1, 1955.

Canvassing will disqualify.

FRANK R. POOLE,
Clerk of the Council.

Council Offices,
Town Hall,
Neston, Wirral.
October 21, 1955.

LANCASHIRE NO. 5 PROBATION AREA

Appointment of Whole-time Female Probation Officer

APPLICATIONS are invited for the above appointment.

Applicants must be not less than 23 years nor more than 40 years of age, except in the case of a serving officer. The appointment will be subject to the Probation Rules, 1949 to 1955, and the salary will be in accordance with the prescribed scale and subject to superannuation deductions.

The successful applicant may be required to pass a medical examination.

Applications, stating age, qualifications, experience and present salary (if already serving), accompanied by copies of not more than two recent testimonials, should reach me not later than November 30, 1955.

THOMAS NOONE,
Clerk to the Probation Committee.

Borough Justices' Clerk's Office,
Town Hall,
Burnley,
Lancs.

COUNTY COUNCIL OF MIDDLESEX

Department of the Clerk of the Council

ASSISTANT Solicitor required. Salary (N.J.C. Assistant Solicitors' Grade) £690 × £30—£900 per annum, plus "London Weighting." Commencing salary of successful candidate, if with two years' or more legal experience since admission, will be £780, plus "Weighting." Appointment subject to medical assessment and prescribed conditions.

Applications, stating age, qualifications, full details of education and experience, and names and addresses of three referees, to be received by me by November 24. (Quote R.598 J.P.)

KENNETH GOODACRE,
Clerk of the County Council.

Guildhall,
Westminster, S.W.1.

HAYES AND HARLINGTON URBAN DISTRICT COUNCIL

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of an Assistant Solicitor at a salary within A.P.T. Division Grade V of the National Scales of Salaries, commencing at £870 per annum and rising by one increment to £900 per annum, plus appropriate London "Weighting." Candidates should have experience in conveyancing and advocacy. Forms of application and further particulars and conditions of appointment obtainable from the undersigned, which when completed must be returned by November 18, 1955.

GEORGE HOOPER,
Clerk and Solicitor.

Town Hall,
Hayes, Middlesex.

BEDFORDSHIRE PROBATION AREA COMMITTEE

APPLICATIONS are invited for the post of full-time female Probation Officer. The appointment and salary will be subject to the Probation Rules, and the selected candidate will be required to pass a medical examination.

Applications, by November 14, 1955, on forms obtainable from the Secretary, Bedfordshire Probation Area Committee, Shire Hall, Bedford.

CITY OF BIRMINGHAM

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the appointment of a full-time Male Probation Officer for the City of Birmingham.

The appointment and salary will be in accordance with the Probation Rules, 1949 to 1955. Candidates must be not less than 23 years nor more than 40 years of age, except in the case of a serving officer.

The post is superannuable and the selected candidate will be required to pass a medical examination.

Applications (in own handwriting), giving age, present position, general qualifications and experience, should be sent with copies of two recent testimonials, to be received by the undersigned not later than November 26, 1955.

T. M. ELIAS,
Secretary to the Probation Committee.

Victoria Law Courts,
Birmingham, 4.

SURREY COUNTY COUNCIL

Assistant Solicitor

APPLICATIONS invited for this post on A.P.T. VII (£900 × £40—£1,100), plus London Allowance (£30 per annum, over age of 26).

Appointment subject to medical examination and to Local Government Superannuation Acts.

Applications, stating age, qualifications and experience, with names and addresses of two referees, to undersigned by November 17, 1955. Previous Local Government experience is not essential.

W. W. RUFF,
Clerk of the Council.

County Hall,
Kingston-upon-Thames.

Justice of the Peace
and
LOCAL GOVERNMENT REVIEW

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REPORTS

NOTES OF THE WEEK

The Budget

We may perhaps remind our readers that government expenditure in 1955/56 was estimated originally as follows:

	£ million
Debt Services	636
Defence	1,557
Assistance to Local Services	632
Health, Insurance, Pensions	852
Agricultural and Food Subsidies	311
Other Services (including general administration)	574
	4,562

Vouchsafing us a blinding glimpse of the obvious, Mr. Butler said in his Budget speech "major reductions in expenditure can only flow from major policy changes" and proceeded to survey the field. He not only found any major policy changes impossible in five out of six of the items listed above, but—and this is disconcerting in the extreme—found no moderate or even small policy changes possible either. He has refused to economize substantially on central government expenditure and has swung his axe against local services. Local authorities well recognize that they have no inalienable right to claim for their inhabitants the provision of services at a level which would impose an unfair and excessive strain on the national economy, and no responsible authority wishes so to do; but, accepting the fact that achievement of a greater export target must need some redeployment of men and material, they find it hard to understand why central government activities are left practically untouched while an all round curtailment of local government services by financial pressure and other means is the main budget aim. If justice is to be done, Mr. Butler must soon crystallize into some definite action his vague remarks about review of Ministry of Agriculture subsidies and must look again at the other expenditure items of his budget with no less care than on this occasion, but with rather more perspicacity and determination to economize.

About his methods of using the knife as distinct from his selection of patient there will be differing opinions. Local authorities alone remain subject to a system of physical controls in that their capital expenditure programmes require government approval and it will be easy, if he means business, for Mr. Butler to compel acquiescence in the suggestions contained in the letter sent to local authorities by Mr. Sandys and himself, namely that total capital expenditure in 1956/57 should not exceed the level of 1954/55. This being so local authority opinion will not be unanimous about the necessity or wisdom of turning prospective borrowers away from the P.W.L.B. door. There are arguments both ways and it is early to forecast how the new arrangements may work out in general but they will certainly be more expensive for a great many authorities: at the moment it may be sufficient to emphasize that local authorities cannot expect more freedom if they show themselves unwilling to accept freedom's responsibilities.

On the new housing policy opinions will be most sharply divided. The rent of a three-bedroom house will need to be increased by about 11*s.* a week when the stage of no subsidy is reached, or approximately 7*s.* 6*d.* a week when only the reduced government subsidy is paid. This is looked upon by many people, some of whom are rather superficial observers of the passing scene, as a great and cruel imposition: a moment's thought must incline us, however, to an opposite opinion. If councils so desire, rents may be pooled, thus easing the burden on tenants of the latest built houses (it will be remembered that subsidies on all houses already built or in progress are unaltered) and differential rent schemes may be introduced. Although opposed in some quarters such schemes have worked satisfactorily for many authorities, producing substantial sums for the housing revenue account, and in our opinion are fully justified. It seems to us indisputable that an applicant for assistance from public funds should be required to demonstrate his inability to provide wholly out of his own resources that service or commodity for which aid is sought. This requirement must be fulfilled by every person requiring assistance to provide his children with a university education, by the parent who desires that his child should be provided with free school meals, by the applicant for home help, by the family seeking assistance from the National Assistance

Board, and by many other classes. It seems a sound principle that the man who can afford to pay his way should do so without public assistance—and the new housing policy means no more than this. The safeguards of continuing existing subsidies and continued payments for slum clearance and other special cases, ensure that no crushing burden will fall on those unable to bear it.

The Local Government Chronicle

Last Tuesday, November 1, the *Local Government Chronicle* attained the centenary of its foundation. The occasion has been suitably marked by a special centenary issue of that journal, and celebrated by a dinner in London at which many of the leading personalities in local government were present. The completion of a century in the life of any journal is a matter not only for justifiable pride in such a milestone having been passed, but is in itself a notable tribute to that journal's past and present editorship. Therefore, to our contemporary, we would offer our warmest congratulations, together with our good wishes for its continued vigour in the future.

Overtaking on the Left

Paragraph 30 of the revised Highway Code, published as recently as 1954, states: "Overtake on the right except when the driver in front has signalled that he intends to turn right."

It is stated, in a newspaper report, that in a recent case in a London county court the county court Judge expressed the opinion that overtaking on the near side had become in London a common practice "which seems to have outgrown the rule of the Highway Code." He ruled that it was the duty of a driver to allow for it.

The matter arose in a claim for damages by a coach firm whose coach had been involved in an accident with a motor car while the coach was taking members of a road safety committee to a road safety display. The particular incident was not, of course, any part of the road safety display. It was said that the coach had stopped at a green light in order to allow pedestrians to cross and that the car drew up on its near side. The collision occurred when both vehicles moved off and were turning left. Each driver alleged that the other was at fault, it being claimed on behalf of the coach driver, that the car driver was wrong in overtaking on the left of the coach. The report states that the Judge ruled: "the coach driver was at fault. I think it was his duty to take due consideration of any vehicle which might have come up on his left."

The report to which we have referred is a very short one, and it is not safe to base arguments on a case the facts of which are not fully ascertained. There is no doubt that in city traffic overtaking on the near side does occur quite frequently because there is a tendency in congested traffic for vehicles to get into one line of traffic or another and for these traffic lines to move independently of one another. In this way it is sometimes the near-side line which is overtaking the off-side and *vice versa*. As the learned county court Judge said, in London traffic drivers must be on the look out for vehicles coming up on their near side and para. 33 of the Highway Code enjoins drivers "in traffic hold-ups, keep in your own lane." Nevertheless we think it would be dangerous to accept that with moving traffic, except in the special conditions of congested city traffic, it is a normal practice to overtake on the near side, unless the driver of the vehicle to be overtaken has indicated his intention of turning to his right. It follows from this that slow moving vehicles should keep well to the left in order to allow faster moving traffic to overtake on the off-side. Experience unfortunately shows that slow drivers often fail to do this, and by hugging the centre of the road they induce other drivers to pass them on their near side—a case of one wrong making another wrong. Human nature being what it is it is not surprising that the slow driver who refuses to give way and allow another driver to overtake him on his off-side is often highly indignant when, his patience exhausted, the baffled other driver overtakes on the near side. There can be no doubt that it is in this sort of way that quite a number of accidents happen.

Attempt or Intent

At p. 598, *ante*, we touched upon the question of what facts constitute an attempt to commit an offence as distinguished from preparation or intention. A recent case at East Ham magistrates' court provides an illustration.

Two youths were charged with attempting to steal money from a telephone kiosk. They pleaded not guilty. The evidence was that two police officers on patrol in a car saw the defendants in the telephone kiosk, but not telephoning. They left, and the police found a pair of pincers in the kiosk, but no damage had been done to the cash box. The youths said they were going to telephone, but admitted they had no money. Later one of them said, according to the police, that they meant to steal money, but saw the police and left before they had had time to do it. Subsequently they admitted they had gone out together with the object of stealing from the box.

After retiring to consider their decision and to take the advice of the clerk, the justices dismissed the charge. The chairman, announcing the decision, stated that the justices were satisfied that the defendants intended to steal, but were not satisfied that they had got as far as attempting.

Presumably there was no available evidence to show that the defendants could be described as suspected persons or reputed thieves. If there had been, no doubt it would have been thought appropriate to prefer a charge that they were suspected persons loitering with intent to commit felony.

Notes of Evidence on Appeal

It is the practice in many places—possibly more in boroughs than in counties—for the clerk to the justices to supply quarter sessions with a copy of the notes of evidence taken in cases where there is an appeal against conviction. The propriety of this practice has often been questioned and now, in the case of *R.* v. *Recorder of Grimsby, ex parte Fuller* (*see* p. 702, *ante*), the Queen's Bench Division has condemned the practice.

According to the report the Lord Chief Justice stated that the practice was objectionable, though it might be that in the course of the case it would be necessary to refer to the notes. He concluded that the safe rule was that on appeal against summary conviction nothing should be placed before the appeal committee or recorder which could not be given to the jury. It will be recalled that the only documents required to be sent to quarter sessions on an appeal are those prescribed by r. 58 of the Magistrates' Courts Rules, 1952—*i.e.*, the notice of appeal, a statement of the decision from which the appeal is brought, and the last known, or usual, place of abode of the parties, and if the appellant, being in custody, has been released on bail, his recognizance.

New Institutions Needed

When an appeal from a sentence of borstal training was dismissed at the Cheshire quarter sessions, the learned chairman said the court was greatly

disturbed that a girl who had committed no offence should have to be sent to borstal. The appellant was 17 years old, and had been sent to an approved school as being in need of care or protection. It was stated that she had escaped from the school, after "smashing up" on two occasions; the court would recommend medical and psychiatric treatment.

The feeling that young people who have committed no criminal offence (if we exclude that of escaping from an approved school, which is referred to in the statute as an offence) ought not to land in a borstal institution, which is regarded generally as a place for rather persistent offenders, is widespread, and no doubt this was the reason why Parliament made provision for some limitation on such committals in s. 72 of the Criminal Justice Act, 1948. It is no doubt impracticable to exclude from the liability to a borstal sentence those who have been sent to an approved school on grounds other than a criminal offence, until some new kind of institution has been established. What seems to be needed is a type of approved school, by whatever name it may be called, in which discipline is stricter and freedom less than is the case in ordinary approved schools.

The Howard League

The annual report of the Howard League for Penal Reform, covering the period July 1, 1954, to June 30, 1955, is brief but important. It shows that the League is not content with merely pointing out things that are in need of improvement but is also anxious to make practical suggestions. There is due recognition of difficulties and appreciation of what is being done. The present position in local prisons is admittedly unsatisfactory in many ways, through no fault of the Prison Commissioners. What the Howard League feels is that personal relationships between staff and prisoners must be right if much good is to be done. There must be a personal approach by the individual officer, an approach along case-work lines as least as careful as that which is made by probation officers. The report calls attention to an address given by Dr. W. F. Roper, principal medical officer at Wakefield Prison, to which we referred at p. 438, *ante*. Overcrowding and under-staffing are at present the two main obstacles to progress in the prisons, and if the prison population could be considerably reduced much more could be done. The Howard League asked the Home Secretary whether he would be prepared to set up a departmental committee to consider alternatives to some of the short sentences of imprisonment which are so often imposed. It is stated that when s. 17 of the Criminal Justice Act, 1948, came into force the number of persons under 21 sent to prison by magistrates' courts dropped considerably, and it is suggested that an extension of the age above 21 might have an effect on overcrowding. The Home Secretary, it is stated, is going into the questions raised and the Howard League has appointed a sub-committee to draw up suggestions.

Prison Visitors

Presumably, men prisoners rarely see women at all, though lads in borstal institutions are not so cut off from female influence. There is something to be said for a suggestion made in this report on the subject of prison visitors. The League has suggested to the Prison Commissioners that the appointment of women prison visitors to men's prisons might be considered as an experiment, for instance, in a corrective training prison. Women prison visitors, says the report, already do valuable work in connexion with young prisoners between the ages of 16 and 21; and suitable women visitors might be able, amongst other things, to contact married prisoners' wives and families, and provide a link not only with the outside world in general but in certain cases with the men's own homes. The matter is understood to be under consideration by the Prison Commissioners.

Industrious Life

At one time, most probation orders contained a requirement that the probationer should lead an honest and industrious life, another that he should be of good behaviour. Nowadays the two are commonly combined in a requirement to be of good behaviour and lead an industrious life. For the breach of such a requirement a young man was before Sunderland magistrates recently and was sentenced for his original offence of larceny to three months' imprisonment. It was stated that he frequently stayed in bed till mid-day or even four in the afternoon, as he said he was tired and that his mother and step-father could not have him at home.

As he was above the age for borstal or a detention centre, it is difficult to see what else the court could do. It is probably true that far more probationers are sentenced for their original offences after the commission of a further offence than after a failure to comply with a requirement in the order, but it is well that anyone given the opportunity of being on probation should realize that it is not merely a question of abstaining from crime, but involves effort on his part. Such a requirement as was disregarded in this case was certainly one designed to secure the good conduct of the probationer and to prevent the commission of offences, for refusal to work is a frequent cause of offences.

Many probationers are dealt with for a first failure to comply with a requirement by a fine and a warning, the probation being allowed to continue. Persistent disregard of obligations is another matter, and the probation system would be in danger of falling into disrepute if it was not treated as serious.

Human Problems of Industrial Communities

An outline programme has been issued of a study conference to be held under the presidency of H.R.H. the Duke of Edinburgh, in Oxford, in July, 1956. This is the outcome of a meeting which His Royal Highness had last year with 50 industrialists and trade unionists who were invited in their individual capacities to advise him on the matter. The purpose of the conference is to conduct a practical study of the human aspect of industrialization and, in particular, those factors which make for satisfaction, efficiency and understanding, both inside industrial organizations and in every-day relations between industry and the community around it. The conference will not deal with matters which come within the normal scope of industrial negotiation. It will be attended by 280 members; 90 from the United Kingdom, approximately 135 from the other countries of the Commonwealth and 55 from the Colonial territories. All proposals for membership will be made through an industrial undertaking, trade union, nationalized enterprise or other appropriate body. As the conference is independent in character, no government or organization will be represented officially. The membership will be composed of men and women broadly within the age group of 25 to 45 years, who are engaged in the managerial, technical and operative roles of industry; and who have a proved interest in the life of their community. There will be study tours in which groups will study under working conditions some of the problems discussed at Oxford and talk to people directly concerned with these problems in industry, and with representatives of employers' organizations, trade unions, social services, education, public utilities, and municipal authorities.

DR. MANNHEIM REFLECTS . . .

By THE REV. W. J. BOLT, B.A., LL.M.

If the universities of this country lag behind other parts of the world in promoting the study of criminology, we may nevertheless be proud of the contributions to the international pool of learning from individual teachers within these shores. The eminence achieved by Henry Goring and Cyril Burt in other generations, is equalled by the world-wide prestige of Dr. Herman Mannheim today. The appearance of every work from his pen is a milestone in the progress of criminal science; and his recent publication, "Group Problems in Crime and Punishment" (Routledge and Kegan Paul; 28*s*.) embodies his latest reflexions on a wide variety of topics.

It incorporates articles he has contributed in late years to learned journals, as well as lectures delivered at the universities of Utrecht, Leiden, Amsterdam, and Oslo, together with reports he was invited to prepare for sundry international conferences.

Criminology has now passed its adolescence. We are too well aware that the early years of every new science are frequently marked by wildness of pretension and extravagance of language; and English lawyers may have been estranged from criminology by these traits in some of its earlier exponents. But this criticism can never be levelled against Dr. Mannheim. His observations are always sober, his conclusions logical and scientific; his approach to the subject is free from the hyperboles which make certain American textbooks so irritating to English readers. This work contemplates several topics which are abstruse and technical, but it never forsakes the *terra firma* of scientific accuracy. Occasional touches of whimsical humour illuminate the handling of erudite themes where turgidity and dullness might have been pardonable.

The first section, which explores the theme announced in the title of the whole book, reflects the trend which makes some sections of the community and of the legal profession nervous of the criminological attitude. The classical policy of criminal law is to fix the offender with individual guilt and punish him accordingly. Scientific study, in seeking the factors which make the offender offend, has found itself compelled to consider in great detail the influence of his environment and social habitat.

Earlier schools of jurisprudence were interested only in the offence as an abstract concept; the legacy of the Lombrosian school was its transfer of interest to the personality of the offender. Dr. Mannheim here postulates his grounds for concluding that this sociological approach is indispensable to a full survey of the problem. He shows that the group factor, both in crime and punishment, must be of primary importance in our reckoning.

This is not the airy-fairy speculation of a theorist, because Dr. Mannheim was, long before he adopted university teaching, a professional magistrate, and in the first article, at p. 16, he shows the immeasurable practical value of the testimony which sociology can place at the service of the criminal courts.

The chapter on "Collective Responsibility and Collective Punishment" opens up a vista of new problems which are now forcing themselves on the attention of many courts, domestic and international. The author shows that it is not a new issue, and traces instances from the Old Testament onwards down to the Nuremberg trials. It emerges today as a delicate problem in Commonwealth politics. In the enforcement of law and order in Kenya and Malaya, the propriety and expediency of imposing collective punishment for the offences of individuals, confront the authorities with harassing anxieties. Nowhere else have I seen the problem outlined so succinctly.

The second section, "Criminology and its Methods," begins with an attempt to assess the modern value of Lombroso. Although most of his doctrines are now discredited as irrational and scientific (even the cheapest newspaper avoids talking of a "criminal type"), yet the researches of Kretschmer and other of our contemporaries, who are incomparably more scientific and exact than Lombroso, clearly establish that there is a close and mysterious relation between constitutional physical types, and patterns of behaviour.

Dr. Mannheim's next section is an illuminating study of crime during the second world war. Readers unaccustomed to criminological literature will find this chapter free from technicalities and easy of assimilation.

The title of the following chapter, "Methodological Problems of Criminology" may make a few readers quail. Every specialized study must forge its own vocabulary, for the labelling of concepts which do not come into the purview of the outside world; and I have heard even legal practitioners (who, of all callings, have the least right to raise the objection), express deep contempt for the jargon of criminology. "Methodology" is such a stumbling-block; but this chapter makes its meaning and value radiantly clear. Dr. Mannheim here unfolds the mysterious procedures whereby the social sciences amass their data, the peculiar devices which are not encountered in other fields of learning, the methods which constitute research. Many readers may affirm with justification that this is the most difficult chapter in the book, but I commend it as the most useful.

The techniques of the "control group" and "prediction tables" are better expounded here than in any work I have yet seen. To understand what is going on in the name of criminology in the United States, which leads the world in social and juristic experiment, we cannot find a better introduction than this chapter. The author takes a quick look at many enterprising experiments in the examination and treatment of crime, and reviews three works which report on large-scale inquiries entirely diverse in character.

From p. 156 onwards, the author states his comments on the activities of that remarkable American couple, Professor and Mrs. Glueck. In reporting the International Congress on Criminology in September, I noted the wide interest excited by their presence, and my impression that Europeans are sceptical about the practical value of their work.

Dr. Mannheim's conclusions deserve quotation. "Ever since the publication of the earliest Glueck studies . . . American penologists have realized the great practical significance of their work for the administration of criminal justice. As a consequence, much time and thought have been devoted to the working out and improvement of predictive devices intended to assist the Courts in their task of finding the most suitable methods of treatment. . . . If we know the individual and environmental conditions, and the behaviour of a large body of offenders over a considerable span of time, we are able to select those factors which are most frequently related to certain types of behaviour, and can devise Prediction Tables of a fairly general applicability. In the present study, out of 63 factors in the family and personal histories of the delinquents, and

their behaviour during each particular form of treatment, five factors which showed the highest symptomatic value and about which information could be most easily obtained (birthplace of father, discipline by father, discipline by mother, school retardation, school misconduct) were chosen, for instance, to construct a Prediction Table for the likely behaviour of an offender during 'straight probation.' . . . The authors claim that the collection of the necessary information would not require more time than is at present needed for the usual report of a probation officer, and that on the basis of this information each offender could be scored in a few minutes, which may seem somewhat over-optimistic. . . . In order to avoid possible misconceptions it should be mentioned, however, that the authors are particularly anxious to make it clear that their Tables are in no way intended to be used as the only basis of the sentencing policy of the Courts.

"Sceptics may be inclined to say that, after all, every criminal court, as a matter of course, pays attention to those factors on which the Prediction Tables are based. They overlook the fundamental differences between casual, unsystematic, and unchecked personal observations, and the accomplished machinery envisaged by the Gluecks."

The third section of Dr. Mannheim's book is entitled "The American Impressions of a Criminologist," and records his recollections of a five-months' visit to the United States in 1953. With a humility and restraint not too common amongst visitors to that continent, he emphasizes that he could see too little of so vast a terrain in his tour, to offer any safe generalizations. The little he could see, of American prisons and American criminologists, he records faithfully, and presents us with an unusually judicious survey of American life and institutions. The general reader, as much as the seasoned student of criminology, will find richness and stimulation in the author's shrewd observations.

A chapter on "American Criminology" deserves notice. It lists the chief topics which engage the attention of criminologists in the United States. Just as the contents of criminal law vary from system to system, and just as patterns of conduct vary from community to community, so there must be regional variations in the topics which challenge the inquiries of criminologists.

Dr. Mannheim finds that the dominant pre-occupations of American experts are: (1) the role of culture-conflict, with reference to the criminality of foreign immigrants and their children, and of negroes; (2) the ecology of crime (that is, the influence of geography and location), and the study of the delinquency area, with particular emphasis on the sociological factors in juvenile delinquency; (3) professional and white-collar crimes; (4) sexual crimes; (5) psychological and psychiatric factors in juvenile delinquency; (6) follow-up and prediction studies; (7) the methodology of criminological research, and (8) in the field of penology, penal reform.

Another chapter in this section states the author's observations on miscellaneous topics with which he was confronted during his tour, juvenile courts, preventive programmes, and research projects.

The fourth part of the book is an examination of two penological problems. The first is the ever-smouldering issue of Capital Punishment. With a dispassionateness rare in discussions on this perennial topic, Dr. Mannheim reviews all recent developments down to the last House of Commons debate in February, 1955; and, referring to the *Evans* case, on which many consciences are still uneasy, comments: "As long as the death penalty remains, such irremediable errors of justice can never be altogether excluded."

Then follows a chapter on the future of short-term imprisonment. It is noteworthy that two private members of the Magistrates' Association were moved to put on the agenda of the annual meeting, a resolution on this very subject. It is a significant coincidence, that the menace of crime should be observed from two such different coigns, two justices from the benches of petty sessional divisions, and the specialist from his lofty eyrie at the London School of Economics; and to both the observation-posts, the same need commends itself. The Home Secretary has stated lately that the prison commissioners are aware of the growing body of opinion that terms of imprisonment which are not lengthy enough to attain the normal objects of punishment should be abolished. Dr. Mannheim here enunciates the identical conclusion. He states the scientific premises for his belief, and reviews the alternative modes of punishment which may be substituted.

The last section of the work, entitled "Criminal Law," is devoted to two topics. "The Sociological Aspects of the Criminal Law" explores an issue where the jurist will be more at home than the practitioner, magistrate, or general reader. Dr. Mannheim here speculates on the shape of things to come, and the likely lines of change in the administration of criminal law. At p. 280, he suggests a few specific lessons which the criminal lawyer will do well to learn from the sociologist.

"(1) The work of the sociologist, as that of the anthropologist, has made it clear that the law is only one form of social control, and that there are other, equally powerful or perhaps even more effective, forms of social control besides legal punishment and the threat of punishment, such as reward, pressure of public opinion, and others.

"(2) It has also shown that the study of the individual in Society and in his relations to other individuals, is at least as important and indispensable to the lawyer as the study of the individual in isolation, and that the sociological changes in the structure of Society require corresponding changes in the Criminal Law.

"(3) Finally, the Criminal Law has to pay more attention to the mass character of modern Society and to the fact that most human effort is nowadays dependent upon team work, or at least greatly influenced by the mass atmosphere."

In the course of expounding these conclusions, the author remarks: "It is usually better understood by sociologists than by lawyers that 'the group as a whole is often the best of disciplinarians . . . the group itself is frequently able to exert more effective control over the conduct of its members than can an outside individual charged with special authority.' I am much in sympathy, therefore, with the experiments recently made by eminent Dutch judges in enlisting the co-operation of the whole group of workers to which the offenders belong . . . Experiments such as these show how much the criminal court judge of today is on the point of becoming not only an educationist—this he has in fact been already for a long time—but also a sociologist."

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DR. MANNHEIM REFLECTS . . .

By THE REV. W. J. BOLT, B.A., LL.M.

If the universities of this country lag behind other parts of the world in promoting the study of criminology, we may nevertheless be proud of the contributions to the international pool of learning from individual teachers within these shores. The eminence achieved by Henry Goring and Cyril Burt in other generations, is equalled by the world-wide prestige of Dr. Herman Mannheim today. The appearance of every work from his pen is a milestone in the progress of criminal science; and his recent publication, "Group Problems in Crime and Punishment" (Routledge and Kegan Paul; 28*s*.) embodies his latest reflexions on a wide variety of topics.

It incorporates articles he has contributed in late years to learned journals, as well as lectures delivered at the universities of Utrecht, Leiden, Amsterdam, and Oslo, together with reports he was invited to prepare for sundry international conferences.

Criminology has now passed its adolescence. We are too well aware that the early years of every new science are frequently marked by wildness of pretension and extravagance of language; and English lawyers may have been estranged from criminology by these traits in some of its earlier exponents. But this criticism can never be levelled against Dr. Mannheim. His observations are always sober, his conclusions logical and scientific; his approach to the subject is free from the hyperboles which make certain American textbooks so irritating to English readers. This work contemplates several topics which are abstruse and technical, but it never forsakes the *terra firma* of scientific accuracy. Occasional touches of whimsical humour illuminate the handling of erudite themes where turgidity and dullness might have been pardonable.

The first section, which explores the theme announced in the title of the whole book, reflects the trend which makes some sections of the community and of the legal profession nervous of the criminological attitude. The classical policy of criminal law is to fix the offender with individual guilt and punish him accordingly. Scientific study, in seeking the factors which make the offender offend, has found itself compelled to consider in great detail the influence of his environment and social habitat.

Earlier schools of jurisprudence were interested only in the offence as an abstract concept; the legacy of the Lombrosian school was its transfer of interest to the personality of the offender. Dr. Mannheim here postulates his grounds for concluding that this sociological approach is indispensable to a full survey of the problem. He shows that the group factor, both in crime and punishment, must be of primary importance in our reckoning.

This is not the airy-fairy speculation of a theorist, because Dr. Mannheim was, long before he adopted university teaching, a professional magistrate, and in the first article, at p. 16, he shows the immeasurable practical value of the testimony which sociology can place at the service of the criminal courts.

The chapter on "Collective Responsibility and Collective Punishment" opens up a vista of new problems which are now forcing themselves on the attention of many courts, domestic and international. The author shows that it is not a new issue, and traces instances from the Old Testament onwards down to the Nuremberg trials. It emerges today as a delicate problem in Commonwealth politics. In the enforcement of law and order in Kenya and Malaya, the propriety and expediency of imposing collective punishment for the offences of individuals, confront the authorities with harassing anxieties. Nowhere else have I seen the problem outlined so succinctly.

The second section, "Criminology and its Methods," begins with an attempt to assess the modern value of Lombroso. Although most of his doctrines are now discredited as irrational and scientific (even the cheapest newspaper avoids talking of a "criminal type"), yet the researches of Kretschmer and other of our contemporaries, who are incomparably more scientific and exact than Lombroso, clearly establish that there is a close and mysterious relation between constitutional physical types. and patterns of behaviour.

Dr. Mannheim's next section is an illuminating study of crime during the second world war. Readers unaccustomed to criminological literature will find this chapter free from technicalities and easy of assimilation.

The title of the following chapter, "Methodological Problems of Criminology" may make a few readers quail. Every specialized study must forge its own vocabulary, for the labelling of concepts which do not come into the purview of the outside world; and I have heard even legal practitioners (who, of all callings, have the least right to raise the objection), express deep contempt for the jargon of criminology. "Methodology" is such a stumbling-block; but this chapter makes its meaning and value radiantly clear. Dr. Mannheim here unfolds the mysterious procedures whereby the social sciences amass their data, the peculiar devices which are not encountered in other fields of learning, the methods which constitute research. Many readers may affirm with justification that this is the most difficult chapter in the book, but I commend it as the most useful.

The techniques of the "control group" and "prediction tables" are better expounded here than in any work I have yet seen. To understand what is going on in the name of criminology in the United States, which leads the world in social and juristic experiment, we cannot find a better introduction than this chapter. The author takes a quick look at many enterprising experiments in the examination and treatment of crime, and reviews three works which report on large-scale inquiries entirely diverse in character.

From p. 156 onwards, the author states his comments on the activities of that remarkable American couple, Professor and Mrs. Glueck. In reporting the International Congress on Criminology in September, I noted the wide interest excited by their presence, and my impression that Europeans are sceptical about the practical value of their work.

Dr. Mannheim's conclusions deserve quotation. "Ever since the publication of the earliest Glueck studies . . . American penologists have realized the great practical significance of their work for the administration of criminal justice. As a consequence, much time and thought have been devoted to the working out and improvement of predictive devices intended to assist the Courts in their task of finding the most suitable methods of treatment. . . . If we know the individual and environmental conditions, and the behaviour of a large body of offenders over a considerable span of time, we are able to select those factors which are most frequently related to certain types of behaviour, and can devise Prediction Tables of a fairly general applicability. In the present study, out of 63 factors in the family and personal histories of the delinquents, and

their behaviour during each particular form of treatment, five factors which showed the highest symptomatic value and about which information could be most easily obtained (birthplace of father, discipline by father, discipline by mother, school retardation, school misconduct) were chosen, for instance, to construct a Prediction Table for the likely behaviour of an offender during 'straight probation.' . . . The authors claim that the collection of the necessary information would not require more time than is at present needed for the usual report of a probation officer, and that on the basis of this information each offender could be scored in a few minutes, which may seem somewhat over-optimistic. . . . In order to avoid possible misconceptions it should be mentioned, however, that the authors are particularly anxious to make it clear that their Tables are in no way intended to be used as the only basis of the sentencing policy of the Courts.

"Sceptics may be inclined to say that, after all, every criminal court, as a matter of course, pays attention to those factors on which the Prediction Tables are based. They overlook the fundamental differences between casual, unsystematic, and unchecked personal observations, and the accomplished machinery envisaged by the Gluecks."

The third section of Dr. Mannheim's book is entitled "The American Impressions of a Criminologist," and records his recollections of a five-months' visit to the United States in 1953. With a humility and restraint not too common amongst visitors to that continent, he emphasizes that he could see too little of so vast a terrain in his tour, to offer any safe generalizations. The little he could see, of American prisons and American criminologists, he records faithfully, and presents us with an unusually judicious survey of American life and institutions. The general reader, as much as the seasoned student of criminology, will find richness and stimulation in the author's shrewd observations.

A chapter on "American Criminology" deserves notice. It lists the chief topics which engage the attention of criminologists in the United States. Just as the contents of criminal law vary from system to system, and just as patterns of conduct vary from community to community, so there must be regional variations in the topics which challenge the inquiries of criminologists.

Dr. Mannheim finds that the dominant pre-occupations of American experts are: (1) the role of culture-conflict, with reference to the criminality of foreign immigrants and their children, and of negroes; (2) the ecology of crime (that is, the influence of geography and location), and the study of the delinquency area, with particular emphasis on the sociological factors in juvenile delinquency; (3) professional and white-collar crimes; (4) sexual crimes; (5) psychological and psychiatric factors in juvenile delinquency; (6) follow-up and prediction studies; (7) the methodology of criminological research, and (8) in the field of penology, penal reform.

Another chapter in this section states the author's observations on miscellaneous topics with which he was confronted during his tour, juvenile courts, preventive programmes, and research projects.

The fourth part of the book is an examination of two penological problems. The first is the ever-smouldering issue of Capital Punishment. With a dispassionateness rare in discussions on this perennial topic, Dr. Mannheim reviews all recent developments down to the last House of Commons debate in February, 1955; and, referring to the *Evans* case, on which many consciences are still uneasy, comments: "As long as the death penalty remains, such irremediable errors of justice can never be altogether excluded."

Then follows a chapter on the future of short-term imprisonment. It is noteworthy that two private members of the Magistrates' Association were moved to put on the agenda of the annual meeting, a resolution on this very subject. It is a significant coincidence, that the menace of crime should be observed from two such different coigns, two justices from the benches of petty sessional divisions, and the specialist from his lofty eyrie at the London School of Economics; and to both the observation-posts, the same need commends itself. The Home Secretary has stated lately that the prison commissioners are aware of the growing body of opinion that terms of imprisonment which are not lengthy enough to attain the normal objects of punishment should be abolished. Dr. Mannheim here enunciates the identical conclusion. He states the scientific premises for his belief, and reviews the alternative modes of punishment which may be substituted.

The last section of the work, entitled "Criminal Law," is devoted to two topics. "The Sociological Aspects of the Criminal Law" explores an issue where the jurist will be more at home than the practitioner, magistrate, or general reader. Dr. Mannheim here speculates on the shape of things to come, and the likely lines of change in the administration of criminal law. At p. 280, he suggests a few specific lessons which the criminal lawyer will do well to learn from the sociologist.

"(1) The work of the sociologist, as that of the anthropologist, has made it clear that the law is only one form of social control, and that there are other, equally powerful or perhaps even more effective, forms of social control besides legal punishment and the threat of punishment, such as reward, pressure of public opinion, and others.

"(2) It has also shown that the study of the individual in Society and in his relations to other individuals, is at least as important and indispensable to the lawyer as the study of the individual in isolation, and that the sociological changes in the structure of Society require corresponding changes in the Criminal Law.

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The last chapter of his book: "The Treatment of Mental Disorders in Continental Criminal Law" is a comparative study of the posture of different legal systems towards mental

abnormality. The attitude of English law has become a source of perpetual misgiving, and the " M'Naghten Rules " come under fire sporadically; and this cautious contrast of our own doctrine and practice with those of European neighbours enables us to see our own law in relief.

To the great ferment which has revolutionized the attitude of our community towards its criminal law in recent decades, the studies and teaching of Dr. Mannheim have made an unique contribution; and this his latest work can be confidently commended as illustrating present trends.

SUSSEX QUARTER SESSIONS ORDER BOOK (1642—1649)

By ERNEST W. PETTIFER

The county councils of East and West Sussex have co-operated recently in the publication of one of the Sussex Quarter Sessions Order Books, thought to be the earliest record for the county. The Sussex Record Society have assisted by adopting the volume as No. 54 in their county series, and thus a new and valuable addition has been made to the growing list of books now available to those interested in the history of the justice and his work in the seventeenth century. (Obtainable from the County Archivist, County Hall, Lewes or Chichester, price 21*s.*, postage 1*s.* 1*d.*)

Before we examine the contents of the Order Book generous tribute must be paid to the extremely competent editor, Mr. B. C. Redwood, M.A., the assistant archivist at the East Sussex Record Office. A glance at the frontispiece of the book, a reproduction of folio 11.v. of the Order Book, emphasizes the initial difficulty in work of this kind, the transcription of the text, but the real task lies in the interpretation of the text itself. Mr. Redwood has mastered his dual problem, and has given life and meaning to this formal record of the proceedings of Sussex justices during a troubled and changing period of our national history.

Amongst several useful appendices to the new book there is one which embodies an extremely interesting and original set of rules to be observed by the clerk of the peace, rules which, if fully carried out, must have kept the clerk fully occupied. During the eight years covered by the Order Book, the clerk of the peace was Mr. William Alcocke. Mr. Alcocke was not only a conscientious and capable clerk, but he must have been of good stamina, for he never missed a sitting of the sessions during those eight years, although his presence on every occasion must have involved much travelling. In these years, 1642-1649, the county was divided into two divisions, the Eastern and the Western. The Eastern justices sat regularly at Lewes, and were joined there by their Western brethren at a session for the whole county at Midsummer, but the latter usually moved about the county to hold their own sessions. At Easter and Michaelmas they normally met at Petworth, and (except once at Horsham) the Epiphany sessions were at Arundel. Two sessions were held at Chichester, but, wherever the justices assembled, there in his place was to be found the tireless William Alcocke, making his short and precise entries in the Order Book, and carrying out the numerous tasks allotted to him by the rules.

Before leaving the question of the various places at which sessions were held, it should be noted that no building is ever mentioned as a place of meeting, nor, although " monthly meetings " are mentioned, is more precise information given as to where such meetings were held nor what business was transacted at those meetings.

In a county in which most of the inhabitants were engaged in husbandry, it is, perhaps, reasonable to suppose that those who lived off the land would suffer in the turmoil of war and its aftermath more severely than the population of other counties in which the industries were more varied. Certainly a careful reading of the entries in this Sussex record does lead to the impression that the inhabitants were, as a body, in very poor circumstances. The position of the parish of St. Pancras in the city of Chichester is readily explained, for this suburb of the city was almost entirely destroyed in the siege of December, 1642. In their case the Court of Assize had to make an order on quarter sessions to levy rates on 18 other parishes for the rehabilitation of this unfortunate parish, but the impression that poverty was widespread is to be gathered from the appeals of numerous parishes, at various times, for relief, while the list of those distressed persons who came to sessions in dire need is a very lengthy one and the disputes as to liability for poor persons are very numerous. Owing to the extreme difficulty experienced in levying the rates, the county funds seem to have been at all times in a chronic state of bankruptcy, or near bankruptcy. There were numerous applications for annual pensions by maimed soldiers (all of them sufferers in the cause of the Parliament). Quarter sessions were willing enough to make grants, and, when money was available, grants of £4 *per annum* were often given, but when the fund showed signs of insolvency these amounts were often reduced by half, or, another aspect of the situation, maimed men would make their painful way to the town where the justices were sitting to inquire why their pensions were in arrear.

The two main funds, the one for maimed soldiers, and the other for charitable uses, were used without regard to their original purposes. When one fund was low the treasurer raided the other, and so on. Treasurers of these funds (appointed annually) had an unenviable task, and one harassed treasurer was threatened with committal to the Assizes because he shirked putting the state of his account into writing. It was discovered that some parishes had not paid rates for years, and overseers and churchwardens were summoned before sessions and, sometimes, committed to the Houses of Correction at Chichester, Petworth, Horsham, Lewes or Battle, according to the parish in which they lived, as an incentive to get on with the collection of long overdue rates.

Glancing for a moment at the prison (at Horsham) and the Houses of Correction, it will be found that there are not very many entries and that most of them relate to the same dismal story of poverty—wages of the keepers unpaid, prisoners in actual want, and contributions from the county long in arrear. At Chichester (October, 1642) William Wady, the keeper of Horsham gaol, complained that his own quarterly salary of £6 10*s.* was in arrear for two quarters and that he was unable to maintain his prisoners " having a great number in his custody." The treasurer, one William Elson of Oving, gentleman, was ordered to pay the arrears or be bound over himself to appear at sessions to explain his default. But William Wady died, his salary still unpaid. His widow made a series of complaints to sessions as to moneys due to him, and

to her as his successor, but with scant success, so far as can be gleaned, and finally she, too, went the way of all flesh, leaving her executors (at Arundel, January, 1648) to continue the claim on behalf of her children.

Disputes between employers, usually husbandmen, and their servants, engaged by the year, are frequently recorded, in almost every case in the form of complaints that wages were in arrear. One woman servant, Mary Patrick, had been paid no wages for five and a quarter years, although the amount agreed when she was engaged was only £1 per year. John Joy of Woolavington, her employer, was ordered to pay the amount due, £5 5*s*., within 14 days, subject to the arbitration of one justice on the point, put forward by the employer, that she had received a certain amount for clothing. But the background of many other cases was similar, and domestic and agricultural servants must have been in very straitened circumstances. If the servant ran away he or she at once came under the vagrancy laws as an idle and disorderly person, or as a rogue and vagabond, or there was trouble under the law as to settlement. If recaptured, there would appear in the Order Book such a minute as this: " It is ordered that Sarah Sewell, servant to William Bug of the Cliffe, being an idle person, shall be sent to the house of correction in the Cliffe, to be sett on worke and receive due Correction and there to remayne until she shall be thence discharged by one or more of the Justices of the peace of this county."

There are very few references to apprentices, and one case only in which it is specifically stated that the child had been cruelly ill-treated, but there are several entries which begin— " For diverse reasons now showed to the Court," and, as this was usually followed by an order discharging the apprentice from his apprenticeship, the impression given is that the master or mistress had been at fault. Many of these apprentices were not wanted, and the court records disclose a considerable number of appeals by husbandmen and tradesmen against orders made by churchwardens and overseers which compelled them to take children for seven years. One James Tilt of Ifield paid a fine of £5 rather than take a boy placed with him.

The clergy, as usual, appear in these records, sometimes as sinners and sometimes as sufferers. John Peckham, clerk of Little Horsted, was involved with others for trespass, assault and stealing 10 sheaves of wheat. He escaped lightly with a 1*s*. fine. John Skepper of " Horstedkeins," clerk, with two others, pleaded not guilty to housebreaking, and stealing a curious assortment of articles (two feather beds, a pair of " brandyrons," a well bucket, a chain and a brass kettle) and was discharged by the jury. John Wilson, Vicar of Arlington, was indicted for seditious words, following an argument with a parishioner on the validity of images in church. Eight depositions were taken before a justice, presumably those of parishioners who did not believe in images, but the vicar countered the charge by obtaining an order of *certiorari* removing the case from the jurisdiction of sessions.

On the other side of the account there is the case of Nathaniel Goodacre, parson of Ashbornham, for not putting in his allotted six days labouring on the roads. He was fined, but the court deferred enforcement of the penalty indefinitely. Mr. Joseph Wood of Laughton, clerk, had his oats and barley stolen, value £11. The thief fled, but the grain was found in the barn of another man, and restored to the parson. Two men assaulted Stephen Watkins, clerk, of East Grinstead, in his church. One man disappeared, but the other was fined 5*s*. and ordered to pay the costs, 21*s*. 5*d*. Several clergymen appeared at different times to appeal against excessive assessments, with indifferent success, but the court showed sympathy with an old parson, Thomas Blandy of Falmer, who was in poverty, by allowing him a pension of 2*s*. a week, and the widow of a clergyman of Selmeston, Martha Wilshaw, was allowed 4*s*. per week for herself and her children.

(*To be continued.*)

AN UNFORTUNATE MISUNDERSTANDING

The Local Government Superannuation Act, 1937, had to be implemented by several statutory rules and orders, but these were mainly upon supplementary matters, and for the most part highly technical. The essential provisions fixing benefits were in the Act itself. Beneficiary and taxpayer alike could find satisfaction in a statutory settlement; on the other hand, it meant that changes, however necessary, could not be made without delay. The Local Government Superannuation Act, 1953, accordingly relies on the modern method of empowering a Minister to fix benefits by regulation.

This method would not have been adopted by the Government of the day and by Parliament, had it not been acceptable to those affected, but it is essential to acceptance of the method that Ministers entrusted with the function shall be above suspicion of intentional injustice or sharp practice—and, indeed, that the like credit shall be given to local authorities who are empowered to make schemes for carrying into effect particular provisions. This might have seemed so obvious as almost to appear impertinent, had there not flared up a controversy in which (we are sorry to see) bad faith has been alleged in an article in one of our weekly contemporaries. The allegation has been made both against the city council of Birmingham and against the Minister of Housing and Local Government, the council being accused by an organization representing local officials of having gone back on an undertaking given to the staff, and the Minister being accused, in relation to the same matter, of breaking a pledge given by his predecessor in the House of Commons. The controversy arose out of s. 3 of the Act of 1953, which deals with the modification of local legislation in consequence of the coming into force of that Act and relates to a fund subscribed by Birmingham officials, and administered by the city council under a local Act, older than the general Local Government Superannuation Acts. The fund gives benefits to widows and orphans of officials, and is made up by their contributions. Unlike the normal superannuation fund, it receives no contribution from the council. As the local Acts stood when the Act of 1953 was passed, subscription to the local fund was compulsory.

The statement just referred to, of the then Minister, is to be found in the report of Standing Committee C of the House of Commons for March 17, 1953, p. 1738 of the bound volume of Committee Hansards. What he there said was: " If the benefits are above the minimum we say ' good luck to them; let them stay ' but, if they are below, they must conform at least with the minimum laid down by the regulations." This, at first reading, looks quite general, but the context shows plainly (at least to our mind, and we think to the mind of any reader familiar with the technicalities of superannuation law) that he was not concerned with the matter that afterwards arose at Birmingham, but was speaking of local Act schemes, in the sense defined by s. 1 (3) (*b*) of the Local Government Superannuation Act, 1937. Subsection (1) of s. 3 of the Act of 1953 enacts in relation to four specified types of local Act contributor (as defined

in the Act of 1937) that regulations under the section may provide for the local Act scheme to apply, with the new benefits given by the regulations substituted for the benefits given by the local Act scheme, but goes on to enact (by applying s. 1 (4) of the Act) that existing contributors may be allowed to retain existing benefits. Subsection (2) of s. 3 next requires local Act authorities (again in the sense defined by s. 1 (3) (*b*) of the Act of 1937) to make schemes for modifying their local Acts in such a way as to ensure that all local Act contributors, to whom subs. (1) does not apply, shall get rights not less extensive and favourable than (to paraphrase the language) those given to contributors under the Act of 1937. Subsection (3) provides for adapting local Acts so far as necessary by reason of the new Act (again we paraphrase) where a local Act gives similar benefits. We pause to remark that these three subsections all fit the Minister's statement above quoted. Subsection (4) deals with a different topic, *viz.*, local Acts providing (not for a local Act scheme as defined but) for benefits supplementary to or in augmentation of the benefits of the general law or of a local Act scheme. Here the local authority may (and if required by the Minister shall, but we understand there has been no such requirement at Birmingham) make a scheme for modifying or adapting the provision in the local Act, or for discontinuing that provision and disposing of any assets held for the purposes thereof, if it seems expedient or desirable by reason of the coming into force of the regulations conferring new benefits.

Now, seeing that the benefits here are supplementary or in augmentation, and not " similar " (as are those to which subs. (3) relates): seeing also that Parliament has given no option resembling that under subs. (1), and said nothing about " not less extensive or favourable " as in subs. (2), we do not find any room for doubting that subs. (4) was wholly outside the scope of the Minister's assurance above quoted. His words cannot have related to a part of the clause (now s. 3) which on the face of it permitted discontinuance of benefits and disposal of assets, with no statutory safeguard such as occurs in the earlier subsections. On the other hand, the Birmingham fund above described, giving benefits to widows of officials over and above the pension due to the husband during life, and to their orphaned children, falls exactly within the description in subs. (4), which speaks of benefits supplementary or in augmentation. If subs. (4) was not intended to ensure that the local authorities concerned would at least look into the question of winding up such funds (we believe Birmingham and Manchester are the only towns where they exist) it is difficult to see any purpose in the subsection. We doubt whether Standing Committee C of the House of Commons can have been under any delusion about this.

When the Act of 1953 came into full force granting benefits to the widows of local government officials, it was accordingly the duty of the city council to consider whether they would make a scheme for discontinuing this supplementary, augmenting, fund and disposing of its assets, or at any rate for modifying and adapting it. Had they not done so, the Minister could have required them to do it—though in fact we understand he has not.

What the city council have done, we gather from the *Birmingham Daily Post*, is to make a scheme closing the supplementary (widows and orphans') fund to new entrants to their service, and this scheme has, apparently, received the Minister's approval. The *Daily Post* prints a rather complicated story of negotiations between the council and the Birmingham Municipal Officers Guild, the gist of which is that the finance committee agreed at one stage, with hesitation and in deference to the Guild, to keep the fund open to new entrants for a trial period of three years, but was informed that the Minister was not likely to approve this. The committee thereupon reverted to the course they had at first intended.

The Guild, supported by N.A.L.G.O., have been pressing for the trial period, continuance of an option to new entrants to subscribe thereafter being made dependent on the extent to which during that period they are found to take advantage of the option to come into the fund. (We understand that the option, once exercised in this way by an officer, would bind him so long as he remained in the city council's service; the council would, that is to say, be obliged to go on making the appropriate deduction from his salary even if he decided later that the benefits of the ordinary superannuation, as amended by the Act of 1953, gave him all he needed.)

Now it is evident that there is room for difference of opinion, about the best way to deal with an established fund of this peculiar type. The fund was a fore-runner of general superannuation, and it is natural that existing subscribers should be reluctant to see it wound up, even though no one of them, personally, would suffer. It is, however, arguable whether a future entrant to local government ought, at the start of his career, perhaps by an option exercised without full knowledge of the actuarial result, to commit himself to subscribing to the special fund as well as contributing to ordinary superannuation. The subscription would be one *per cent.* of salary, and once he had married it would not be returnable, even though he was superannuated as a childless widower. It is, in short, not a benefit to present officials, but an option of arguable value to boys entering the council's service in future, that is sought to be perpetuated.

The local Guild has accused the council, or committee, of bad faith and the weekly journal above mentioned makes a similar charge against the Minister. In a statement published in the *Birmingham Post* the lord mayor, who was chairman of the finance committee at the relevant time, has repudiated the suggestion, and, because good faith is all important to the generally smooth and harmonious working of superannuation (and indeed it must not only exist but must be manifestly seen to exist), we have examined in detail what Mr. Macmillan said in 1953, together with the relevant portion of the statute which the city council and Mr. Sandys have to work in 1955. In the result, we do not see any ground for a charge of bad faith against Ministers, any more than against the council or the finance committee.

In a short article " On Reporting Standards " at 110 J.P.N. 68, we remarked that " unless Governments are treated fairly the parliamentary system will not work." We were speaking of an episode when Mr. Aneurin Bevan had charge of a Bill inherited from the Coalition. The Association of Municipal Corporations asked for an amendment of its machinery. The Bill and the amending clause dealt with technical matters of local government, devoid of party interest, but one widely circulated newspaper perverted its account of the effect of the amendment, so as to support an editorial comment imputing bad faith to Mr. Bevan, and what it said was copied elsewhere, even by a clergyman in a broadcast sermon. No such political motive, we are sure, underlies the allegations made this year about the Birmingham superannuation problem, but the allegations, when examined, seem to fall within the principle of what we wrote nearly 10 years ago, which applies just as much to local authorities as to Governments or Ministers. We hope those who made the allegations in the present matter, which have been widely circulated, will not now persist in them.

NOTICES

The sixth Oxford Conference on " The Education of the Young Worker " will be held at Oriel College, Oxford, on April 7-13, 1956. The fee is £12, and a few non-resident members can be accepted at a fee of £4 4*s*. The conference is under the patronage of H.R.H. the Duke of Edinburgh. Further details may be obtained from the Secretary, Young Worker, 15 Norham Gardens, Oxford.

CARS ON HOUSING ESTATES

Motor vehicles, multiplying faster than roads can be built to carry them when moving, and much faster than accommodation can be provided for them when at rest, continue to produce fresh problems. We spoke at 118 J.P.N. 691 of parking on grass verges, especially in suburban streets; incidentally, one of the readers who wrote to us on this subject has just informed us of attractive streets in Wandsworth now completely ruined, by the parking on the grass verges of cars and vans and lorries, without interference by the police or highway authority. At pp. 190 and 191, *ante*, we spoke of certain remedies available before the magistrates, and we have also advised that the owner of a private street may have a right of civil action against motorists who stand their cars upon it, otherwise than in the course of obtaining access to property fronting on the street, and we have denounced on several occasions the silting up of public streets, for hours or a whole day, by vehicles which preclude use of the streets for their primary purpose. A case in the north of England, widely and not always fairly reported in the newspapers, indicates that local authorities may find themselves obliged, as landlords, to take special steps to curb two allied evils. These are the parking of vehicles on the roads of a housing estate, and the placing of vehicles in the gardens of the houses. As regards the latter, it may be said that occupants of privately owned houses often leave a car upon the drive or garden path: this is true, but the occupants of privately owned houses are either owner occupiers, or the condition of the garden is a matter between them and their lessors. In practice, it does not often happen in privately owned property that vehicles are habitually stationed in the garden, unless upon a carriage drive formed for the purpose. On a local authority's housing estate there will be few such drives, and use of the gardens for this purpose must result in general deterioration. Parking on grass verges is also said to be increasing, on these estates as elsewhere. As regards parking on the carriageways of such estates, one objection amongst others is that such roads are not commonly designed to serve as parking places; either there will be obstruction or vehicles will overlap on to the verges or the footpaths. Apart from council tenants who have cars of their own for earning their living or for pleasure (a growing number), there are often van drivers and lorry drivers, who find it advantageous to park their employers' vehicles outside their homes at night, loaded ready for the morning start. Often these are heavy vehicles, and there may thus be greater damage to the roads from parking than would usually occur in a residential area of privately owned houses, where heavy vehicles would not normally stand about all night. There is also nuisance from the starting early in the morning of diesel or petrol engines on the heavy vehicles.

It was for the purpose of coping with evils of this sort that a northern district council made the rule which, when enforced by proceedings in the magistrates' court, led to nation-wide publicity. The rule was that the council's tenants must not keep vehicles upon the ground belonging to their houses, except in a proper garage, and must not leave vehicles on the verges or in the roads on the estate. This rule formed part of the tenancy agreements; tenants were required to sign a document showing that they knew of its existence, and it was printed in the rent books. Proved breach of the rule was, unless some good cause was shown (such as illness of a tenant, obliging him to have a car at hand, or some other emergency) treated as ground for terminating the tenancy and applying to the magistrates for an eviction order. The cases which came before the magistrates in the summer of this year were reported as relating to the parking of vehicles on waste land (which was misleading, since there is no waste land in any normal sense on a housing estate properly laid out), and also as if the council had applied for eviction orders harshly.

In truth, fuller investigation showed that they had treated the offenders with great consideration. The council's first problem was identification, since the presence of a car outside a householder's front gate is not evidence that it was he who left it there. In an ordinary case, the council would not know the registration number of a tenant's car, or whether he has a car. Sometimes, no doubt, identification can be practically secured from information already in the council's records. They may know, for instance, that the tenant of a house is a lorry driver employed by a certain firm, and it is that firm's lorry which is seen spending the night, time and again, outside the house. With ordinary cars it may be necessary to obtain the owner's name from the registration authority, in order to find out whether the owner is a tenant upon the estate in question.

When a car left in the road overnight has been identified as belonging to a tenant, a letter is written to him asking for an explanation. He may, for instance, be able to satisfy the council that there was illness in the house, or that some other good cause existed. Their stock letter makes it plain that shortage of garage accommodation or parking ground on the estate is not sufficient reason. (Here the council seem to be setting an example to police authorities and others elsewhere, who are all too ready to acquiesce in the stock plea of the motorist that, having a car, he must leave it somewhere.)

In fact, the council in question has erected several garages for tenants; it plans to erect others, and may also provide for the estate a parking place off the roads, with a proper surface. Meantime, it is not prepared to let the estate degenerate by misuse of the roads, like the privately developed area of which we spoke at the beginning of this article. Our local correspondent tells us that there is some hostility, as was to be expected; that some tenants approve the council's attitude in the interest of amenity, and that most (as also was to be expected) appear to be indifferent.

Enforcement of the council's rule upon an estate maintained under the Housing Acts is, unfortunately, bound to give rise to adverse comment, along the lines of " one law for the poor and another for the rich," but the true answer to this comment is that the rich (in the highly artificial sense of motorists who are not council tenants) are at present allowed almost everywhere to behave illegally in the matter of parking, with cynical disregard for the convenience of occupiers of adjacent property and for the detriment to members of the public who do not use cars. If similar latitude were allowed to everybody, the " poor " themselves would be the greatest sufferers. It is time that some stand should be made against this selfishness. We have in the past deplored an extension to housing estates of petty restrictions which private owners would neither desire nor be able to enforce: restrictions, in particular, on animals and the tenant's use of his garden in the manner he prefers. But promiscuous leaving of cars on such estates is damaging to the council's property, as well as a nuisance to the tenants as a body, and it may be no bad thing for councils to use their powers as landlords, by enforcing on their own estates a measure of neighbourly consideration.

WEEKLY NOTES OF CASES

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Ormerod and Barry, JJ.)

October 20, 1955

GIBBONS *v.* KAHL

Road Traffic—Careless driving—Failure to accord precedence to pedestrian on zebra crossing—Duty of driver.

CASE STATED by Middlesex justices.

At a magistrates' court informations were preferred by the appellant, Gibbons, a police officer, charging the respondent, Kahl, (i) with driving without due care and attention, contrary to s. 12 of the Road Traffic Act, 1930; (ii) with failing to accord precedence to a pedestrian on a crossing, contrary to the Pedestrian Crossings Regulations, 1954.

On January 30, 1955, a trolley bus driver was driving his bus along Bruce Grove, Tottenham. When he was between 20 and 25 *yds.* from a pedestrian crossing, three children stepped on to the crossing, which was a correctly marked uncontrolled crossing with flashing beacons within the terms of the Pedestrian Crossings Regulations, 1954. The bus driver immediately gave a slow-down hand signal, gradually braked to a stop in front of the crossing, and waved the children to cross the road. The children, aged about 10, five and four years, had stopped, but moved across the crossing severally when waved across. When the children had passed the front of the trolley bus, the respondent drove his motor car past the bus at a speed which was not fast and on to the crossing, and knocked down one of the girls who was about 22 *ft.* into the crossing from the respondent's near-side pavement. The width of Bruce Grove at that point was 33 *ft.* and the off-side of the trolley bus was 12 *ft.* from the near-side kerb. Shortly after the incident the respondent's car was found partly over the crossing with its front 2 *ft.* from the far side of the crossing and its near-side 17½ *ft.* from the near-side kerb. At the material time the road was dry and the weather was good. The respondent knew that he was approaching a crossing, saw the hand-signal, and was able to see everything in front of him clearly, but he did not see the children until they had passed in front of the bus.

The justices were of the opinion that the facts disclosed raised some doubt whether the respondent had taken all due care in his driving or had negligently failed to accord precedence to foot passengers on a pedestrian crossing, resolved those doubts in his favour, and dismissed both informations. The appellant appealed, and on the hearing of the appeal counsel for the respondent stated that he was unable to resist the appeal with regard to the second information.

Held, (i) if a motorist, when approaching a pedestrian crossing, was unable to see whether anyone was on it by reason of other traffic on the road, it was his duty to drive in such a way that he could stop if there was found to be anyone on the crossing, and the case must be remitted with a direction to convict on the second information. *Leicester* v. *Pearson* (1952), 116 J.P. 407, was decided on its special facts and on the finding of the magistrate that the driver had not been guilty of any negligence in not seeing the pedestrian; (ii) it did not follow that in every case where a breach of the Pedestrian Crossings Regulations, 1954, had been committed that the defendant was necessarily guilty of driving without due care and attention, and the court would not interfere with the magistrates' dismissal of the first information.

Per curiam: The court does not favour appeals by the police in cases of dismissals of informations for careless driving, unless there are grounds for thinking that the magistrates' decision was perverse.

Counsel: *Wrightson* for the appellant; *D. Fairbairn* for the respondent.

Solicitors: *Solicitor, Metropolitan Police; Avery, Son & Fairbairn.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

SCHOFIELD *v.* JONES

Licensing—Supply outside permitted hours—Supply by licensee to members of his staff—No private friendship between licensee and persons supplied—Licensing Act, 1953 (1 *and* 2 *Eliz.* 2, *c.* 46), *s.* 100 (1) (*a*), *s.* 100 (2) (*c*).

CASE STATED by the Manchester stipendiary magistrate.

At Manchester magistrate's court informations were preferred by the respondent Jones, a police officer, charging the appellant, Harold Shaw Schofield, licensee of the Yew Tree Inn, Wythenshaw, Manchester, with supplying intoxicating liquor on his premises outside the permitted hours, contrary to s. 100 (1) (*a*) of the Licensing Act, 1953.

The magistrate found that at 10 minutes after midnight on January 9, 15 members of the staff of the inn were seated round two tables in the refreshment room and each had in front of him a partly consumed glass of intoxicating liquor, which, it was admitted, had been supplied during non-permitted hours and during non-working hours. The licensee did not allow the staff to drink or smoke while on duty, and that period included the time taken in washing and tidying up after closing time. Each member of the staff was given one drink, or two drinks on Saturday night, irrespective of the capacity in which he or she was employed. The only qualification to receive the drink was to have been a member of the staff on the particular night. The first drink on the night in question was debited by the licensee to the brewery company which owned the premises, and the second drink was supplied by the licensee and paid for by him on Saturday night because on that night the staff worked very hard and were a long time without food and drink. There was no evidence of any private friendship in the ordinary sense existing between the appellant and any of the 15 members of the staff concerned. The magistrates held that the licensee had committed the offences charged and imposed fines in respect of each offence. The appellant appealed.

Held, that the magistrate was right in finding that the staff were not private friends of the licensee within the meaning of s. 100 (2) (*c*) of the Licensing Act, 1953. The court did not agree with the view expressed by the magistrate that the fact that the drinks were debited to the brewery company did not prevent them from being supplied at the expense of the appellant, or with the dictum of Humphreys, J., in *Jones* v. *Cockcroft*, [1945] 2 All E.R. 333, to that effect, but as in the present case two drinks had been supplied to the staff on the night in question, one of which was supplied by the licensee himself, the appeal must be dismissed.

Counsel: *Lamb, Q.C.*, and *Mais* for the appellant; *W. G. Morris* for the respondent.

Solicitors: *Meredith Hardy & Hutchinson*, for *Bullock, Worthington & Jackson*, Manchester; *Sharpe, Pritchard & Co.* for town clerk, Manchester.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

LOCAL GOVERNMENT, ETC., SUPERANNUATION

The Minister of Housing and Local Government has made the Superannuation (Local Government and Public Boards) Interchange (Amendment) Rules, 1955, which came into force on October 15.

These rules amend the Superannuation (Local Government and Public Boards) Interchange Rules, 1949, which provide for interchange of superannuation rights between pensionable local government employment and pensionable employment under a public board.

CLEAN AIR BILL

Much interest has been aroused by the Government's Clean Air Bill, and different views are being expressed about some of its provisions. At the annual conference of the Sanitary Inspectors Association, Sir Hugh Beaver drew attention to some of the differences between the recommendations of the committee of which he was chairman and the provisions of the Bill. He thought it would have been better if the Government had made a direct statement at the outset declaring clean air to be the national policy. This would force the nationalized industries to take the subject into consideration. He criticized the absence in the Bill of the appointment of a Clean Air Council which his committee thought necessary to co-ordinate different interests. Nor is there any requirement for local authorities to submit annual reports as to the progress made in their respective areas. He agreed, however, that the Bill was a real step forward. It would greatly increase the work of sanitary inspectors. There were 200,000 furnace chimneys to be watched in the black areas. He did not think any local authority had yet realized the immensity of the task involved if the problem was to be properly and energetically tackled.

The matter was also discussed in an " Any Questions " session at the annual conference of the National Smoke Abatement Society. Mr. Gerald Nabarro, M.P., who introduced the private Bill which led to action being taken by the Government, thought the Bill allowed too many escape routes for the recalcitrant industrial chimney owner. Sir Ernest Smith, in his presidential address at this conference, said it

would be foolish to pretend that there were not some local authorities which even today seemed to care little about the prevention of smoke and he hoped that they would be stimulated by the regional smoke abatement committees. He said the society was anxious to extend its services to its local authority members. On the emission of fumes and smoke from motor vehicles, he expressed regret that pollution from such vehicles had been excluded from the Bill because it was considered that the Road Traffic Act and regulations made under the Act were adequate. He said the road traffic regulations which were the concern of the police, were very rarely put into effect in spite of obvious and alarming growth of this kind of pollution. According to the *Manchester Guardian*, this matter was also the subject of a lecture at the Athenaeum Club, Bournemouth, when Dr. A. Parker, director of fuel research for the Department of Scientific and Industrial Research spoke of an invading horde of grit, dirt and smoke particles which penetrated houses through open windows, ventilators and crevices. He said that smoke which consisted of very fine particles of soot and tarry matter was carried in the air over distances of 50 miles or more. In some heavily industrialized areas more than 500 *tons* and possibly up to 2,000 *tons* of matter a square mile might be deposited from the air in a year.

BLIND CHILDREN

According to the *Manchester Guardian*, the Minister of Education has decided that there will be either two "all age" schools or two primary schools and one secondary modern school for blind children in the North of England and the North Midlands. It is said that the Minister is particularly anxious that one of these schools should be a modern school, the finest of the kind in this country and probably in the world, with its own swimming pool, playing fields and all the amenities of the countryside. Some of the existing schools will be closed when the reorganization is completed. Another matter which was mentioned at the meeting when the announcement was made was the recently developed treatment which has brought about the eradication of the disease which had caused a large number of children to be born blind. It is anticipated that new cases of blindness in babies will be rare. Fifty years ago there were over 33 different causes of blindness among children. Now 80 *per cent.* of them are blind due to congenital cataract.

ANNUAL REPORT OF THE BOARD OF CONTROL

The annual report of the Board of Control for 1954 shows that the number of patients in mental hospitals increased by 1,352 during the year to 140,487. Calculated upon standards of space prescribed by the Ministry of Health these hospitals provide accommodation for 123,725 patients or 568 more than at the end of 1953. Out of this accommodation, 2,170 beds were not available for use; 955 being used for other services, 450 awaiting renovation or repairs, and 765 unusable because of shortage of staff. The hospitals were, therefore, overcrowded to the extent of 18,932 patients. About one-third of the patients admitted were over 55 years of age and about one-fifth were 65 years or over. It is emphasized that old people cannot be regarded as one group with a similar outlook but need careful diagnosis, as the prognosis for those with affective disorders, who form about 50 *per cent.* of the admissions, is relatively good, if identified and treated, while that for those with organic psychosis is poor. About 40 *per cent.* of the admissions are readmissions. These are in part due to relapse and in part to patients leaving hospital before they should do so and having to return for further treatment. It might be expected that the readmission rate for voluntary patients would be higher than that for certified but there is in fact very little difference.

TRAINING OF WELFARE OFFICERS

A recent issue of the *Welfare Officer* contains a report of an interesting address by Mr. F. E. Oldfield at a conference of the Institute of Welfare Officers in which he pointed out that emphasis on specialist aspects of welfare work is a natural tendency but the tendency has some unfortunate consequences, if only that it encourages the establishment of watertight groups of specialists in a sphere where full co-operation between specialists is vital to the success of the work. As he explained, the work done by welfare officers can best be expressed in terms of the needs of the people they serve. On what he called the "Personal Philosophy" of the welfare officer he must have a belief in himself and in people. To develop this belief he must understand emotional development in himself and in others. The student, therefore, needs to spend a lot of time systematically observing and studying normal people carrying out their own normal working and leisure time activities; and must accept the fact that he is one of the people he is studying and that his first responsibility is to develop himself. Mr. Oldfield went on to consider welfare as a new science—on which there are different schools of thought—the art of welfare work, and the need (in his view) of skilled teachers. One of the most important points which he made in his address was that the work of a welfare officer includes not only the interpretation of the problems of other people, but, quite frequently, the referral of the person or the problem to a specialized welfare officer. In conclusion he stressed the need for the maximum co-operation between all welfare bodies concerned with training or frequent and purposeful contacts between teachers, trainers and field workers; and more planning of "on-the-job" training. This is one of the aspects of training which will no doubt be considered by the working party which was set up by the Minister of Health under the chairmanship of Miss Eileen Younghusband, C.B.E., to consider the work, recruitment and training of local authority social workers.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

In the Notes of the Week for October 22 under the heading of "The Future of Housing Subsidies" it is stated that "the present general standard subsidy is £35 12*s.* per house per year; the Exchequer contribution £26 14*s.* per year for 60 years; local authority contribution £8 18*s.* per house per year for 60 years."

You are no doubt aware that for houses completed after April 1, 1955, the Exchequer subsidy is £22 1*s.* and the local authority contribution £7 7*s.*

Yours faithfully,
W. NICHOLL,
Borough Treasurer.

P.O. Box No. 10,
Municipal Building,
Preston.

[We are obliged to our correspondent.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

LOCAL ACT POWERS

In his interesting article at p. 603, *ante*, your contributor J.F.G. mentions s. 107 of the Berkshire County Council Act, 1953, which provides that a "working class" house is to be deemed unfit for human habitation if it falls short of a certain standard of repair and decoration, including interior decoration. Section 260 of the Middlesex County Council Act, 1944, contains a similar provision, but since September 1, 1954, I have regarded it as repealed by s. 9 (3) of the Housing Repairs and Rents Act, 1954. Your correspondendent does refer to that section, but he does not point out what seems to be its fatal effect on s. 107 of the Berkshire Act.

One useful result of the repeal of such local enactments is that the administration of s. 9 of the Housing Act, 1936, is freed from all trace of the vague distinction between houses suitable for what were called the "working classes" and other houses. In *Green & Sons* v. *Minister of Health* [1947] 2 All E.R. 469; 111 J.P. 530, Denning, J. (as he then was) described the phrase as "quite inappropriate in modern conditions"; and after nearly all its effect in housing legislation was swept away by the Housing Act, 1949, it is curious to find this relic of the past given a short revival by a local Act passed in 1953.

Yours faithfully,
B. D. HARROLD.

Town Hall,
Hendon, N.W.4.

[Our contributor writes: "When I first looked at s. 107 of the Berkshire Act, I thought the paragraph to which I referred in my article was not caught by s. 9 (3) of the 1954 Act, as (*a*) and (*b*) in the former Act are not expressly specified as "defects" for the purposes of s. 9 of the 1936 Act; but on reflexion I think this is probably too strained a construction, and that Mr. Harrold is right in arguing that the whole of s. 107 has been repealed by the 1954 Act."—*Ed., J.P. and L.G.R.*]

REVIEWS

Knight's Local Government Superannuation. Second Edition. By Horace Keast. London: Charles Knight & Co., Ltd., London. Price £2 2s. 6d. net.

The first edition of this work (of which the senior editor was a member of the bar with special experience in local government) appeared soon after the Local Government Superannuation Act, 1937, and a fresh edition was therefore overdue. There have been works issued by other publishers since the war, but it will be valuable to all local government officials who have to deal with superannuation, to have this new work, which includes the Local Government Superannuation (Benefits) Amendment Regulations of July, 1955: it is, in other words, completely up to date as at the long vacation. The Local Government Superannuation Act, 1953, made great changes in the system established by the Act of 1937, and necessitated the output of a fresh crop of statutory instruments. The method adopted by the present editor has been to treat each section of the Act of 1937 as the governing text, and then to print the related provisions of the Act of 1953 and any appropriate statutory instruments. Decisions of the Minister of Health or the Minister of Housing and Local Government, which have been published, are then brought in as a species of case law, in the comments on each section. It is at first sight strange to a lawyer's eye that the work contains no table of cases: a testimony to the fact that the many differences which must arise, between administering authorities and beneficiaries under these Acts, have been settled without the expense of litigation. Incidentally, although it is beyond the scope of a book review to say much upon this aspect, the fact is relevant to current controversies about ministerial jurisdiction, tribunals, and the like.

As in the first edition of the work, which came out between the wars, the printing and setting out are admirable and (although the collecting under statutory rubrics of provisions of different dates and varying sources has meant some rather involved use of different founts of type) we have not found this at all confusing.

One feature which remains to be proved in practice is that the work is entirely "loose leaf." We cannot yet rid ourselves of the idea that a legal textbook is best contained in an ordinary binding, the function of the loose leaf method being to provide for supplementary material. We have said this before, in relation to certain works dealing with more complex and important topics. We are however open to conviction, and subscribers to this new edition of *Knight's Local Government Superannuation* will be able to obtain pages for substitution as changes in the law are made, especially by statutory instruments, and will have a good opportunity, in this comparatively short work of 400 pages, to discover which method they prefer.

Leaving aside this formal matter, we can say that we have ourselves had the first edition in constant use, despite the fact that for some time now it has needed to be supplemented by other works. We have, on a first reading of this second edition, formed the opinion that it will be not less useful, and that finance officers and establishment officers of local authorities will find it of great value in dealing with superannuation work.

Cases and Materials on International Law. By Lester B. Orfield and Edward D. Re. Indianapolis: The Bobbs-Merrill Company, Inc. Price not stated.

In the preface to this work it is noticed, as a hopeful sign, that the second world war has been followed by awakened interest in international law among American lawyers. The present is a case book, covering the period from the Napoleonic wars, and bringing to the notice of students a good many points which have been forgotten. Apart altogether from its juristic value, it makes interesting reading because of the cases showing the relation (not always happy from a modern point of view) between international law and what might be considered public morals. For the serious student of international law in Great Britain no less than in the United States, the collection will, we think, have real value. It can be recommended also to lawyers, not especially concerned with international law, and indeed to other educated persons who care to dip into it, for the light it throws upon the development of public opinion, and the relationship between the supreme courts of different countries and the development of a recognized international system. It is valuable to be reminded that international law, as something recognized by civilized nations, is far older than the international courts that now exist, and also that decisions of the English Court of Admiralty, the House of Lords, or the Privy Council, and of the Supreme Court of the United States, have been busy for generations, working out principles which have been accepted beyond the parochial limits of their respective jurisdictions.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

ADMINISTRATION OF JUSTICE BILL

When Parliament reassembled after the Summer Recess, the Lord Chancellor (Viscount Kilmuir) formally introduced in the House of Lords, the Administration of Justice Bill. This measure seeks to amend the law relating to Admiralty jurisdiction, legal proceedings in connexion with ships and aircraft and the arrest of ships and other property; to make further provision as to the appointment, tenure of office, powers and qualifications of certain judges and officers; to make certain other amendments of the law relating to the enforcement of certain judgments, orders and decrees.

PRISONERS' LETTERS TO M.Ps.

At question time in the Commons, Mr. P. F. Remnant (Wokingham) asked the Secretary of State for the Home Department what limits were placed on the letters which could be written by convicted prisoners to their members of Parliament while serving their sentences in Her Majesty's Prisons.

The Secretary of State for the Home Department, Major G. Lloyd-George, replied that prisoners might use letters from their ordinary allowance to write to a member of Parliament of their choice, and special letters were permitted in certain conditions, but some limitations were imposed in the interests of good order and discipline. In particular, a prisoner might not make complaints about his treatment in prison in a letter to a member unless he had already exercised his right of making the complaints through one of the appointed channels for the consideration and redress of such grievances.

NOTICE OF IMPENDING EXECUTIONS

Mr. Martin Lindsay (Solihull) asked the Secretary of State for the Home Department whether he would introduce legislation to provide for the date and place of executions not to be made public until after they had taken place.

Major Lloyd-George replied that he did not think that it would be right to refrain altogether from announcing the date and place of an impending execution but he had noted for legislation at a convenient opportunity the recommendation of the Royal Commission that notice should be given in the press instead of by posting outside the prison gate.

HOMOSEXUALITY AND PROSTITUTION

Mr. K. Robinson (St. Pancras, N.) asked the Secretary of State for the Home Department when he expected to receive the report of the committee inquiring into the law relating to homosexuality and prostitution.

Major Lloyd-George replied that he understood that the committee was likely to be occupied for at least another two months in hearing evidence and it was not yet possible to say when it would be able to present its report. It was, however, well aware of his anxiety to have it and he was sure that there would be no avoidable delay.

OBSCENE LIBEL

Mr. Robinson asked the Secretary of State if he had completed his examination of the law of obscene libel; and if he would introduce amending legislation during the present session.

Major Lloyd George replied that the examination was not yet completed.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Wednesday, October 26

COPYRIGHT BILL, read 1a.

Thursday, October 27

ADMINISTRATION OF JUSTICE BILL, read 1a.
VALIDATION OF ELECTIONS (No. 2) BILL, read 2a.

HOUSE OF COMMONS

Tuesday, October 25

VALIDATION OF ELECTIONS (No. 2) BILL, read 3a.
RURAL WATER SUPPLIES AND SEWERAGE BILL, read 2a.

Thursday, October 27

POST OFFICE AND TELEGRAPH (MONEY) BILLS, read 1a.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 86.

HE PANICKED AND LANDED IN FURTHER TROUBLE

A Timperley man appeared at Altrincham magistrates' court recently, charged with making a false statement at Eastbourne to an officer lawfully acting in the execution of the Aliens Order, 1953, contrary to art. 25 (3) (*a*) of the order. The particulars of the charge alleged that defendant had stated on a no-passport excursion identity card that his name was Robert Withington and that he resided at Victoria Road, Saltney, Chester.

For the defendant, who pleaded guilty, it was stated that he had tried desperately to get out of the country when he knew that he was to be prosecuted for assault. He had tried, unsuccessfully, to row to France in a dinghy from Jersey. He had boarded a ship for Portugal, but later returned to England, and whilst at Margate was served with a summons for assault. Defendant had then tried to join the French Foreign Legion and had got to Paris, joined up and been sent to Marseilles; there he had got into trouble and had been discharged, and had found his way back to this country without proper papers by way of the French Riviera, Italy, Switzerland and France. Defending solicitor submitted that all these " irresponsible happenings " had their origin in the assault charge. Defendant was said to have turned over a new leaf and to have formed his own business.

The chairman, in imposing a fine of £50, pointed out that the offence was serious for it might lead to repercussions from the French authorities. It was the sort of action, he said, which might lead to the taking away of the privileges of a no-passport excursion identity card.

COMMENT

Article 25 of the order specifies a number of offences which include in para. 3 (*a*) the making to an officer lawfully acting in the execution of the order, of a false return, false statement or false representation. By art. 26, offenders may be punished on summary conviction with six months' imprisonment or a fine of £100.

One of the best features of the order is art. 35, by virtue of which no fewer than 16 previous aliens orders and four amendments to the order of 1920, are repealed.

(The writer is greatly indebted to Mr. Grahame Harris, clerk to the Altrincham justices, for information in regard to this case.)

R.L.H.

No. 87.

" VANITY, VANITY . . ."

A 60 year old hospital orderly was charged at Leicester City magistrates' court recently with representing himself to be a person entitled to use a military decoration, contrary to s. 13 of the Army (Annual) Act, 1919, and s. 156A of the Army Act, 1881. He was also charged with improperly using the description of " registered nurse " contrary to s. 8 of the Nurses Registration Act, 1919.

For the prosecution, it was stated that defendant had represented himself as being Captain X, M.C., M.B.E. He had also represented himself to be a State registered nurse when he took employment at Leicester General Hospital as a porter. The fact that he had misrepresented the position had not brought him any advantage, because the hospital would have been perfectly willing to employ him without the qualifications he had wrongfully assumed. In a statement to the police, defendant had said that he had bought the medals at Birmingham and had had his name printed on the reverse side; he had also had printed forms showing a list of names of persons who had been decorated in the New Year's Honours List, including the one which he had assumed.

Defendant, who pleaded guilty to the charges, told the court that he had acted as he had because it made him feel important. He had posed as an Army officer for the last seven years.

For the defendant, who had a number of previous convictions for false pretences, larceny, wearing military decorations and military uniform improperly and for describing himself as a State registered nurse, it was stated that he had been discharged from the Army after the first World War on medical grounds; he had since tried to re-enlist on 12 occasions but had been rejected every time.

Defendant was sentenced to three months' imprisonment on the first charge and fined £10 on the second. No time was given for payment of the fine and in default of payment defendant was sentenced to 51 days' imprisonment, such imprisonment to be consecutive.

COMMENT

This class of case which crops up periodically always seems to have a pathetic side to it, and it is impossible to withhold a measure of sympathy for those who feel that their lives are so insignificant that they have to buttress them up by assuming rank, honours, qualifications, etc., to which they have in fact no just claim.

Many readers will have seen " Separate Tables," at present showing at St. James's Theatre, London, and will have experienced for Eric Portman, who plays the part of a pseudo-major, a feeling of sympathy which it is impossible to suppress.

The offence of wearing unauthorized decorations may be punished by three months' imprisonment or a fine of £20. By s. 8 of the Nurses Registration Act, 1919, a person who unlawfully assumes the title of registered nurse may be punished in the case of a first offence with a fine of £10 and in the case of a second or subsequent offence with a fine of £50.

(The writer is greatly indebted to Mr. W. E. Blake Carn, clerk to the Leicester City justices, for information in regard to this case.)

R.L.H.

No. 88.

TAKING PHOTOGRAPHS WITHIN THE PRECINCTS OF A COURT

A photographer, employed by one of the national daily newspapers, appeared before the Edmonton justices sitting at Tottenham on October 6, last, to answer a charge that he had at that court on a day in August, last, taken a photograph of a person who was a party to proceedings before the court, contrary to s. 41 (1) of the Criminal Justice Act, 1925.

For the prosecution, it was stated that on the date in August on which the offence was committed, two men had been charged with being suspected persons, loitering with intent to commit a felony; contrary to s. 4 of the Vagrancy Act, 1824. One of the defendants, a man of 22, was a registered blind person, and the fact that he was charged with this offence had caused considerable interest both in the local and national press.

The two men, who had pleaded not guilty to the charge, were convicted and fined, and at the conclusion of the case the defendant was seen by police officers to take a photograph of them both when they were still in the main entrance of the court house and the defendant was standing in the forecourt. The defendant was also seen taking a second photograph as the convicted men were actually crossing the forecourt. Defendant was brought back to the court buildings and seen by a police inspector. He surrendered the negatives which were later developed by New Scotland Yard and produced at the hearing.

The defendant, who pleaded guilty, apologized and stated that he thought that as the convicted men had actually left the court building which, in most cases in the metropolitan stipendiary courts, abut directly on to the street, he was entitled to take the photographs.

Defendant was fined £2 and ordered to pay £2 2*s*. costs.

COMMENT

It appears from the report of the case which the writer has received from Mr. L. A. C. Pratt, LL.B., clerk to the Edmonton justices, to whom the writer is greatly indebted, that the photographer genuinely believed that he was entitled to take the photographs which, in fact, resulted in his conviction.

It is, however, abundantly clear from a perusal of s. 41 of the Act of 1925 that the photographer did offend, for by subs. (2) (*c*) of the section it is provided that a photograph . . . shall be deemed to be a photograph . . . taken or made in court if it is taken or made . . . in the precincts of the building in which the court is held, or if it is a photograph . . . taken or made of the person while he is entering or leaving . . . the precincts as aforesaid.

Offenders are liable under subs. (1) (*b*) to a fine of £50.

R.L.H.

PENALTIES

Lowestoft—October, 1955. (1) Being the owner of a Labrador which worried poultry on agricultural land. (2) Allowing the dog to be on the road without a collar. (1) Fined £2. (2) Fined £3, to pay 14*s*. 6*d*. costs. Defendant's dog, in company with a collie bitch, was seen chasing chicken and turkeys on a wheat stubble. Later seven turkeys were found dead and one was missing.

Scarborough—October, 1955. (1) Careless driving. (2) Driving a motor car when the holder of a provisional driving licence without being accompanied by a qualified driver. (3) No " L " plates. (1) Fined £5. (2) Fined £20 (the maximum penalty). (3) Fined £2.

Abertillery—October, 1955. Drunkenness. Absolute discharge. Defendant, aged 75, told the court he got drunk because his father had died.

Swansea—October, 1955. (1) Driving without due care and attention. (2) Being in such a position as not to have proper control over a car. (1) Fined £10. (2) Fined £5. Defendant, a man of 35, was seen kissing and cuddling a girl in a car whilst driving.

Bow Street—October, 1955. Flying an aircraft at low altitude so as to cause unnecessary danger to persons or property. Fined £50, to pay £6 6*s*. costs. Defendant, a middle aged man, flew a twin-engine Miles Gemini aircraft 40 to 50 *ft*. above a jetty where explosives were being loaded on to a barge, and then under high-tension cables, which were sagging about 250 *ft*. below 487 *ft*.-high pylons.

PIGS IN CLOVER

> " ' Don't grunt,' said Alice to the Duchess's baby; ' that's not at all a proper way of expressing yourself . . .' It grunted again, so violently, that she looked down into its face in some alarm. This time there could be *no* mistake about it; it was neither more nor less than a pig, and she felt that it would be quite absurd for her to carry it any further . . .
>
> ' If it had grown up,' she said to herself, ' it would have made a dreadfully ugly child; but it makes rather a handsome pig, I think.' And she began thinking over other children she knew, who might do very well as pigs, when she was a little startled by seeing the Cheshire Cat sitting on a branch of a tree a few yards off . . . ' Did you say pig, or fig? ' said the Cat."

It has not infrequently occurred to us to indulge in similar speculations, when we have been called upon to admire some horrid little brat, sprawled upon the hearthrug or trundled in a perambulator by its doting parents. Babies and piglets have so many characteristics in common that the myopic (whether Cheshire Cats or others) may well have doubts on the question of identification. Both species have that nondescript type of features which, even when they are not screwed up into india-rubber-like contortions, are equally unrecognizable by reason of their being smeared with residual traces of the last meal or two; both have a predilection for wallowing in, and even devouring, with every appearance of enjoyment, whatever mire, mud, slime and dirt may be within easy reach. Both are in the habit of emitting a variety of inarticulate noises—squeaks, grunts, snorts and snuffles—which their progenitors (but nobody else) affect or appear to interpret as expressive of pleasure, discomfort, hunger or repletion, as the case may be. Both spend an unconscionable amount of time, between meals, in languid torpidity, which gives place to an indecorous eagerness on the approach of food.

The nursery rhyme of childhood bears vivid witness to the close relationship that Alice observed. Long before Freudian symbolism became a commonplace, infants were taught in the nursery to identify their wiggling little toes with the pig that went to market, the one that stayed at home, and the smallest one that said " Wee, wee, wee! I can't find my way home! "

" The child is father of the man," and there are people in whom these characteristics persist through adult life. Such were those companions of Odysseus whose gluttonous habits led them into trouble on more than one occasion. Circe the Enchantress did little more than guide the trend to its logical conclusion when she smote them with her wand, changed them into swine, and drove them into the pigsties. The episode related in the Tenth Book of the *Odyssey* is, in fact, an early illustration of economic planning on a broad practical scale, anticipating George Orwell's *Animal Farm* by nearly 30 centuries.

In that most modern of ordered economies, the Soviet Union, the pigs live in a veritable planners' paradise. A delegation of 20 British agriculturalists, recently returned from a visit to Russia, are full of admiration at the thoroughness with which Marxist theories are being applied to the affairs of the porcine community. Malthusian doctrines of birth control, popular as they may be with the human population, are distinctly out of favour among the pigs. " The Russians claim " says *The Times* " that they keep up an annual litter rate of 20 to 22 piglets, a performance which suggests that British sows are nowhere near pulling their weight yet." The Geneva spirit of cultivating international relations is manifested by the fact that Russian pigs are all based on the Yorkshire Large White variety, and the British visitors were at pains to ascertain how they have managed to attain this level of fecundity.

It appears that the Russian pig farms have women-attendants working day and night shifts " so that the sow always has a friend and helper by, when it is farrowing." By a carefully selective process (partially reminiscent of the method recommended for human babies in Plato's *Republic*) the piglet is taken away from its mother immediately after birth and given an identity mark. The sow's teats are marked correspondingly, and when its offspring returns to its mother it is trained, from the beginning, to use only its own teat. " In this way the sows succeed in raising all their large litters without loss."

This magnificent piece of socialistic organization will assuredly go down in history under the slogan *liberté, égalité, maternité*. But this is by no means all. " On several of the farms," said the British delegation spokesman, " we noticed that they washed the pigs every day, and in some they made actual swimming-baths in an adjoining river, into which they drove the pigs and made them swim for it." This practical adaptation of the episode of the Gadarene swine will be noted with interest by farmers and theologians alike. As a further precaution against possession by unclean spirits, the pigs are washed once a week with hot water and soap—a hygienic habit which drains all the exaggeration out of Thomas Hood's description of the Irish Schoolmaster who " kept a parlour-boarder of a pig." The pigs are said to receive these ministrations with unconcealed delight.

The biologists maintain that acquired characteristics are never inherited; yet it would be strange if all this post-natal care, this attention to infant welfare, and the inculcation of habits of cleanliness, orderliness and discipline, were to leave no permanent effect upon the breed. Now that this new gospel of porcine nurture and culture is spreading from the east to the western world, what will be the result? Will farrowing sows learn to pay voluntary visits to the local " vet." for ante-natal examination and clinical after-care? Will future generations of piglets take after their prototype in Mr. A. A. Milne's *Winnie-the-Pooh*, wash themselves like cats, and associate with their human owners on terms of domestic equality? Proverbial warnings, at any rate, will be outdated: " buying a pig in a poke " will no longer be apt to describe the danger of accepting things at their face value, and the words " piggish " and " pigsty " will cease to bear opprobrious implications, when the creature's behaviour on this side of the Iron Curtain is as exemplary as on the other. Cleanliness is next to godliness, and the day may even come when the process of evolution ranges the species, in Disraeli's words, on the side of the angels; when that occurs nobody will any longer dare use the expression " pigs might fly " as a touchstone of improbability.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Consent—Alleged father of illegitimate child.*

In P.P. 1 headed "Adoption" on p. 677, *ante*, you state that "In the absence of any order or agreement, it is not necessary to make the alleged putative father a respondent to the application . . ."

However, where no such order or agreement exists, but a payment has been made, I consider it desirable that the alleged putative father be made a respondent even though his consent is not required. He is thereby clearly informed of the proceedings and of the result of the application providing, of course, that the court complies with r. 21 of the Adoption of Children (Summary Jurisdiction) Rules, 1949.

S. TAYLEY.

Answer.

Although consent is not required in such circumstances, *Re M. (an infant)* [1955] 2 All E.R. 911; 119 J.P. 437, and the alleged father is not entitled to be made a respondent, the court has a discretion to cause notice to be served upon him under r. 9 of the Adoption of Children (Summary Jurisdiction) Rules, 1949, as substituted by the rules of 1952. We agree that where the alleged father has paid with some regularity this may be desirable.

2.—Elections—*Motors at parliamentary election—Political markings—Concentration of forces.*

1. Having in mind s. 88 (1) and (2) of the Representation of the People Act, 1949, may a motor car duly registered with the returning officer and carrying a placard that it is so registered, as required by s. 88 (4), display a poster inviting electors to vote for a particular candidate at the election; *e.g.*, "Vote for . . . "?

2. Section 88 (4) (*a*) of the Representation of the People Act, 1949, states that the number of registered vehicles shall not exceed in a county constituency one for every 1,500 electors and in a borough constituency one for every 2,500 electors. Am I right, therefore, in assuming that any number of these vehicles can be used in a particular polling district, providing the number employed in the whole constituency is not in excess of the stipulated number?

PINZA.

Answer.

Yes, in our opinion. There is no statutory restriction on displaying a political poster as well as the statutory placard, or on concentrating the permitted number of vehicles into an area smaller than the constituency.

3.—Husband and Wife—*Maintenance order—Revocation—Application by husband who is abroad in Royal Air Force.*

In 1950, A obtained an order under the Married Women Acts against her husband B on the grounds of persistent cruelty, the husband being ordered to pay maintenance for his wife and children.

B is now serving in the Far East in the Royal Air Force, and since the making of the order he has obtained "fresh evidence," namely that his wife had committed adultery in the year 1947. B is desirous of applying to the justices for a revocation of the order in so far as the wife's maintenance is concerned.

Can an application be made to the justices by B and the case dealt with in his absence? It is understood B will not be returning to England for some time.

Your views and reference to any cases or rules on the subject would be appreciated.

SOWER.

Answer.

B can be represented by counsel or solicitor (s. 99, Magistrates' Courts Act, 1952). If the adultery could be proved without his personal evidence, by the evidence of other witnesses, he could instruct his solicitor to make the complaint and proceed on his behalf (r. 4, Magistrates' Courts Rules, 1952).

If B's personal evidence is essential, nothing can be done until he returns to England.

4.—Landlord and Tenant—*Tenant's temporary leaving of premises to facilitate works—Effect on security of tenure.*

A house, the tenancy of which comes within the Rent Restriction Acts, is in need of substantial repair and reconstruction through deterioration. The work (which may take two months to complete) cannot be carried out unless the house is temporarily vacated. No formal notice under the Public Health or Housing Acts has yet been served, but the landlord is prepared to carry out the works necessary. The tenant is afraid that if he leaves he will be unable to claim back as of right his tenancy on the old terms (plus, of course, any rent increase permissible on account of improvements).

You are asked kindly to advise:

1. Is either the tenant's security of tenure under the Rent Acts or the terms of tenancy affected by temporary vacation?

2. Is rent payable during the period the house is vacated?

3. Would the answer to either (1) or (2) be different if the local authority were to serve a formal notice under the Public Health or Housing Acts requiring the execution of works?

4. If the work is carried out in pursuance of a notice under the Housing Acts is there any obligation on the council to provide temporary accommodation?

P. ESSEM.

Answer.

1. No, in our opinion. The *ratio decidendi* explained by the Master of the Rolls in *Morley's (Birmingham), Ltd.* v. *Slater* [1950] 1 All E.R. 331, is helpful on this point.

2. Yes, except that if a certificate is given by the local authority that the house is not in a reasonable state of repair, any increases of rent are not payable: *see* Rent Act, 1923, s. 5; Rent Act, 1933, s. 12; *Peach* v. *Lowe* [1947] 1 All E.R. 441.

3. No, in our opinion; *see* answer (2) above.

4. No, in our opinion. There is no statutory provision to that effect. Section 45 of the Act of 1936 applies to proceedings under part III of the Act and not to s. 9 in part II.

5.—Licensing—"*Premises used for public resort*"—*Licensing Act, 1953, s. 133.*

I notice that the editor of *Paterson*, 1955 edn., is of the opinion that a shop may be a place of public resort within the meaning of the above section. I have perused the case of *Sewell* v. *Taylor* (1859) 23 J.P. 792, and in the judgment of Erle, C.J., there is a reference to "the public when collected in large assemblies." I cannot quite fit these words in with an ordinary grocer's shop in a small way of business. Do you consider such a shop comes within the meaning of public resort in s. 133 of the Licensing Act, 1953?

ORTH.

Answer.

The editorial opinion to which our correspondent refers that "premises used for public resort" within the meaning of s. 133 of the Licensing Act, 1953, "may be an ordinary shop" has appeared in *Paterson* certainly since the 15th edn. (1903). (The opinion was first appended to s. 9 of the Licensing Act, 1872, and later to s. 70 of the Licensing (Consolidation) Act, 1910.) Fortified by no stronger authority than this, we think that "an ordinary grocer's shop in a small way of business" is "premises used for public resort" to which the prohibition contained in s. 133 of the Licensing Act, 1953, is directed.

We do not think that the decision in *Sewell* v. *Taylor* (1859) 23 J.P. 792 is very helpful on the point. In this case the court was considering the meaning of a different expression, "place of public resort" by reference to the objects of s. 4 of the Vagrancy Act, 1824, and the observation of Erle, J. (partly quoted by our correspondent) was "The object was simply to protect the public when gathering in large assemblies."

6.—Magistrates—*Jurisdiction and powers—Issue of warrant on complaint, after adjournment sine die.*

A wife summons her husband for a maintenance order under the Married Women Acts. He fails to attend the hearing, but the summons is held to be properly served. The hearing is adjourned *sine die*. A reinstatement notice is sent to the husband of the further hearing, but this is returned undelivered by the Post Office.

The question is: Can a warrant for the husband's arrest under subs. (2) be authorized when the case comes before the court at the further hearing? Or do you think subs. (4) rules it out?

My own opinion is that a warrant can issue, and that subs. (4) is only intended to prohibit the issue of a warrant when the defendant's non-appearance was at the adjourned hearing *only*, *i.e.*, he had previously appeared at the original hearing.

If at the adjourned hearing the wife fails to attend but writes a letter requesting the issue of a warrant, is the issue of a warrant (or any other positive action) prohibited by s. 49 of the Act?

S. POJO.

Answer.

In our opinion, subs. (4) prohibits the issue of a warrant, where the defendant fails to appear at an adjourned hearing, unless the court is satisfied that he has had adequate notice of the time and place of the adjourned hearing, whatever may have happened at any previous hearing. No warrant must be issued after the defendant has given evidence (subs. (6)).

In this case the defendant has never appeared before the court. Before issuing a warrant, therefore, the complaint must be substantiated on oath (subs. (2)), the court must be satisfied that the summons was served on him (subs. (3)), and that he has had adequate notice of the adjourned hearing (subs. (4)).

Section 49 does not prohibit anything. It merely provides that the court *may* dismiss the complaint if neither party appears. If the wife has written a letter indicating that she wishes to proceed with the case the summons could be further adjourned under s. 46 and notice given to the parties to attend once more. It might be better to allow the wife to withdraw the summons and to start afresh.

7.—National Assistance Act, 1948—*Recovery of contributions towards cost of maintenance in residential accommodation.*

I shall be glad of your advice on the following:

(*a*) Where a person contributes towards his maintenance in an establishment provided by the local authority under part III of this Act, or towards the maintenance of some other person for whom he is liable under s. 42 of the Act, the local authority will normally require him to sign an agreement to pay the assessed contribution, when the amount is in excess of the minimum charge fixed by the Minister of Health under the provisions of s. 22 (3) of the Act. I have been informed that unless any such agreement is stamped, it is legally unenforceable. Is this correct? If so, what amount of stamp duty is payable?

(*b*) Does this requirement also apply to agreements signed by persons liable to contribute under the provisions of the Children Act, 1948?

P. S. COLL.

Answer.

(*a*) The exemption in the Poor Law Act, 1930, s. 162, is not re-enacted in the National Assistance Act, 1948. Stamping as for an agreement is therefore necessary.

(*b*) Yes, in our opinion, when an agreement is made, but we are not sure what are the agreements contemplated in this part of the query.

8.—Road Traffic Acts—*Temporary restriction of traffic under s.* 47, 1930 *Act—Application of normal Road Traffic Act provisions to vehicles allowed to use road during period of restriction.*

By virtue of s. 47 of the Road Traffic Act, 1930, the highway authority have power to make an order for the temporary closure of a road prohibiting the use of such road by vehicles during the closure, except those of contractors working on the road. During the period of closure an offence is committed by a vehicle of one of the contractors under the Construction and Use Regulations, 1955, as a result of which damage is caused to a private vehicle owned by an employee of another contractor working on the site.

1. Under the above circumstances may proceedings be taken under the appropriate regulation? and similarly

2. If the driver of a private vehicle contravening the order made by the highway authority commits an offence against the same regulations?

In my humble opinion, although the road is temporarily closed by the order, it still remains a highway for the purpose of the Road Traffic Acts and regulations made thereunder.

J. NEWTOWN.

Answer.

Section 47 of the Road Traffic Act, 1930, gives power to prohibit or restrict traffic on a road temporarily. The road, however, remains a road within the meaning of the Road Traffic Acts.

In our opinion persons using vehicles on that road are subject to the ordinary provisions of the Road Traffic Acts and regulations. If they are using their vehicles in contravention of the order of the highway authority they are, in addition, liable to the penal provisions of subs. (7) of s. 47.

9.—Tort—*Negligence—Fence of highway.*

The council are the highway authority in respect of a road immediately abutting on the seafront. When the footpath between the roadway and the actual foreshore was constructed, a parapet approximately 18 *in.* in height was constructed, presumably with the object of protecting pedestrians from stepping on to the beach some 12 to 15 *ft.* below. Storms damaged both parapet and footpath. When the path was reconstructed the parapet was not replaced, so that no protection was left between the footpath and the beach. It appears to me that, although the council were under no obligation to construct a parapet in the first instance, the fact that a parapet was originally constructed and not replaced would render the council liable for misfeasance, if an injury were suffered by a person using the footpath falling on to the beach.

I shall be glad to know whether you agree.

PEXO.

Answer.

While the council might perhaps resist proceedings on these facts, which are not quite the same as those in *McClelland* v. *Manchester Corporation* (1912) 76 J.P. 21, we strongly advise them not to chance it, but to protect themselves against proceedings, and pedestrians against injury, by putting up a fence of some sort.

10.—Town and Country Planning—*Display of advertisements—Political inscription.*

An occupier of premises in the town has painted on his own flank wall in letters about 2 *ft.* high the words "The Real Enemies of Mankind are the Americans. Conservatives oppose God and Natural Law." There is considerable agitation to have the writing obliterated as soon as possible. Please advise:

(*a*) Whether the writing can be said to be an "advertisement" within the meaning of s. 119 of the Town and Country Planning Act, 1947, and reg. 2 (1) of the Town and Country Planning (Control of Advertisements) Regulations, 1948, S.R. & O. S.I. 1613, and so dealt with under s. 32 (3), and/or by enforcement notice.

(*b*) Is there any other provision under which action could be taken? There does not seem to be any provision in general statutes applicable. Byelaws and local Acts are not helpful.

ASIGN.

Answer.

(*a*) The regulations of 1948 exclude memorials and railway signals, and thus indicate that the Minister did not regard the word as relating merely to advertisements in the sense of commercial advertisements. *See also* reg. 14 (1) (*a*) as to some political advertisements. But these are criminal enactments, and we greatly doubt whether in construing such an enactment it can be safely held that the word covers an expression of political or religious faith painted on a man's own property.

(*b*) We do not think there is anything.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC, (*contd.*)

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